

## SELECTED HIGHLIGHTS of the 2011 General Session

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### Business

#### SB 35 Construction Licensees Related Amendments

Mayne, K.

This bill modifies labor, commerce, and general government provisions to address issues related to construction licensees that are unincorporated entities.

- amends provisions related to wages, workers' compensation, antidiscrimination, and occupational safety and health, to address coverage of owners of unincorporated entities that are construction licensees;
- addresses workers' compensation fraud;
- amends definitions;
- modifies requirements related to applying for a contractor license;
- addresses demonstration of financial responsibility;
- addresses administrative actions that can be taken related to unprofessional or unlawful conduct;
- addresses lawful presence in the United States;
- imposes workers' compensation and unemployment coverage requirements related to certain construction licensees; and
- makes technical and conforming amendments.

#### SB 167 Condominium and Community Association Revisions

Niederhauser, W.

This bill modifies, enacts, and repeals provisions relating to condominium associations and community associations.

- modifies, repeals, and enacts provisions relating to the Condominium Ownership Act and the Community Association Act;
- provides what constitutes fair and reasonable notice;
- modifies provisions relating to liens for assessments and related charges and the process to collect assessments and enforce the liens;
- modifies provisions relating to insurance;
- enacts Community Association Act provisions, including provisions relating to:
  - declaration content;
  - the exercise of development rights;
  - association bylaws, rules, and budget;
  - creditor approval of specified actions;
  - the collection of assessments and related charges; and
  - insurance;
- repeals redundant or obsolete provisions; and
- makes technical changes.

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SB 314 Alcoholic Beverage Amendments

Valentine, J.

This bill modifies the Alcoholic Beverage Control Act and related provisions to address various issues concerning the regulation of alcoholic products.

- modifies definition provisions;
- provides that certain retail licenses are exempt from limitations on the number of retail licenses that may be issued at any time;
- addresses the relationship between the number of alcohol-related enforcement officers and the issuance of licenses;
- modifies the calculation of the ratio of revenue from food as compared to revenue from alcoholic products;
- requires taverns to comply with electronic verification requirements for proof of age;
- provides for the governor to appoint the chair of the Alcoholic Beverage Control Commission;
- provides for the issuance of certificates of approval for out-of-state importers and suppliers of beer, heavy beer, and flavored malt beverages;
- provides for the commission with the approval of the governor and with the consent of the Senate to appoint the director of the Department of Alcoholic Beverage Control;
- addresses prohibited interests, relationships, and actions;
- creates the Alcoholic Beverage Control Act Enforcement Fund and directs how money in the fund is to be expended;
- consolidates language regarding warning signs required to be posted in retail settings, including event permits;
- addresses the size of containers of heavy beer that can be sold;
- modifies fees;
- permits the sale, offer for sale, or furnishing of an alcoholic product by room service in other than a sealed container;
- prohibits consumption of an alcoholic product on licensed premises after a specified time;
- removes existing restrictions on transferring licenses or locations of licenses and replaces the provisions with the Transfer of Retail License Act;
- addresses the discounting of an alcoholic product;
- changes the numbers used to determine the number of retail licenses that may be issued at any one time;
- modifies requirements related to the location in restaurants of dispensing, storage, and related instruments or equipment;
- modifies provisions related to dining club licenses;
- modifies hours of sale;
- addresses the limit on the number of airport lounge licenses;
- eliminates outdated language regarding grandfathered facilities for on-premise banquet licenses;
- enacts a new reception center license, including:
  - addressing the commission's power to issue;
  - addressing specific licensing requirements; and
  - addressing specific operational requirements;
- enacts a new beer-only restaurant license, including:
  - addressing the commission's power to issue;
  - addressing specific licensing requirements; and
  - addressing specific operational requirements;
- imposes additional requirements on on-premise beer retailers;
- extends certain grandfathering for restaurant sublicenses;
- prohibits event permittees from selling, offering for sale, or furnishing an indefinite or unlimited number of alcoholic products during a set period for a fixed price unless certain conditions are met;
- clarifies provisions related to the number of drinks a patron may have before them at an event;
- requires agreements to create exclusive sales territories for beer wholesaler licensees;
- addresses when meetings of the commission may be closed;
- requires alcohol training and education seminars to be taken in person;
- requires the governor to comply with certain requirements under the Budgetary Procedures Act; and
- makes technical and conforming amendments.

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### Economic Development

HB 99 Motion Picture Incentives Amendments

Hughes, G.

This bill modifies provisions of the Motion Picture Incentive Account regarding definitions, the issuance of tax credit certificates, and the ceiling on incentives granted to a motion picture company or digital media company.

- provides that money in the Motion Picture Incentive Account is nonlapsing;
- modifies the definition of state-approved production and defines digital media company, digital media project, and new state revenues;
- provides that the Governor's Office of Economic Development may issue tax credit certificates annually as incentives for motion picture productions and digital media projects within the state;
- provides for carryover of an amount of tax credit certificates equal to the amount not issued by the office in a given fiscal year;
- provides that the office shall make rules establishing criteria for determining the amount of the incentive;
- increases the ceiling on an incentive granted to a motion picture company from 20% to up to 25% of the dollars left in the state by the company; and
- makes certain technical changes.

HB 287 Restructuring of the Department of Community and Culture

Harper, W.

This bill provides a mechanism for the restructuring of the Department of Community and Culture and distributes and transitions certain of its powers, duties, functions, and programs to other governmental departments and agencies.

- provides a mechanism for the restructuring of the Department of Community and Culture and the transitioning of certain powers, duties, functions, and programs;
- moves the Utah Science Center Authority, the Heber Valley Historic Railroad Authority, and the Utah State Railroad Museum Authority to Title 63H, Independent State Entities;
- moves the Bond Volume Cap Allocation program to the Governor's Office of Economic Development; and
- makes certain technical changes.

SB 312 Economic Development Coordination

Jenkins, S.

This bill creates the Governor's Economic Development Coordinating Council to plan, coordinate, and recommend strategies, goals, and activities related to economic growth and development in the state.

- creates the Governor's Economic Development Coordinating Council and provides for its membership; and
- provides that council's duties and powers shall include:
  - coordinating and advising on policies and objectives related to economic development and growth in the state;
  - coordinating to avoid duplication and increase the availability of venture and seed capital for research and development and growth of new and existing businesses;
  - focusing on technologies, industries, and geographical areas in which the state can expand investment and stimulate job growth; and
  - coordinating ideas and strategies to increase national and international business activities for both urban and rural areas of the state.

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### Education

HB 57 Joint Professional School of Veterinary Medicine

Mathis, J.

This bill provides for the establishment of a veterinary education program offered by Utah State University in partnership with Washington State University.

- allows Utah State University, with the approval of the State Board of Regents, to enter into a partnership agreement with Washington State University to establish a veterinary education program;
- provides that, initially, up to 20 Utah resident students and 10 nonresident students may be accepted each year into a four-year program leading to a doctorate degree in veterinary medicine;
- provides that students pursuing a doctoral degree in veterinary medicine complete the first and second years of study at Utah State University and the third and fourth years of study at Washington State University; and
- requires the Legislature, subject to future budget constraints, to annually appropriate money to pay for the nonresident portion of tuition for Utah students enrolled at Washington State University under a partnership agreement.

HB 98 Capital Outlay Funding Modifications

Watkins, C.

This bill expands the permitted uses of proceeds from a capital outlay levy imposed by a local school board.

- allows a local school board of a school district with an enrollment of fewer than 2,500 students to use the proceeds of a capital outlay levy for certain maintenance and operations functions, in addition to capital outlay or debt service; and
- makes technical amendments.

HB 152 School Community Councils Amendments

Wright, B.

This bill modifies provisions pertaining to the membership, selection, and operation of school community councils.

- modifies qualifications for a parent or guardian member of a school community council;
- modifies duties of a school community council;
- requires an election for the parent or guardian members of a school community council to:
  - extend for a period of at least three consecutive school days; and
  - commence no later than 30 days after the first day of the school year;
- requires a principal to provide notification of a school community council election at least 21 days before the commencement of an election;
- modifies the officer positions of a school community council;
- requires a school's principal, in order for the school to receive an allotment of School LAND Trust Program money, to provide a signed, written assurance that:
  - the school community council membership is consistent with requirements specified in law; and
  - the selection of school community council members is consistent with requirements specified in law;
- directs the Legislative Auditor General, at the direction of the Legislative Audit Subcommittee, to audit a sample of schools for compliance with requirements pertaining to school community council membership and the selection of school community council members;
- provides for a reduction or an elimination of a school's allocation of School LAND Trust money for failure to comply with requirements pertaining to school community council membership or the selection of school community council members; and
- makes technical amendments.

HB 199 Advertisements on School Buses

Bird, J.

This bill authorizes the sale of advertising space on a school bus.

- allows a local school board or charter school governing board to sell advertising space on the exterior of a school bus;
- requires a local school board or charter school governing board to adopt guidelines for the type of advertising permitted on a school bus;
- prohibits certain types of advertising on a school bus; and
- requires the Department of Transportation to make rules governing the placement and size of an advertisement on a school bus.

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### HB 302 Reading Program Amendments

Newbold, M.

This bill imposes requirements for reading instruction in kindergarten through grade three.

- requires the State Board of Education to contract with an educational technology provider, selected through a request for proposals process, for a diagnostic assessment system for reading for students in kindergarten through grade three;
- provides that the diagnostic assessment system for reading shall be made available to school districts and charter schools that apply to use the diagnostic assessment system for reading beginning in the 2011-12 school year;
- requires the diagnostic assessment system for reading:
  - to include assessments that may be individually administered to a student by a teacher using a portable technology device; and
  - to have the capability of producing test results and reports immediately after test administration;
- requires school districts and charter schools to:
  - administer benchmark assessments to students in grades one, two, and three at the beginning, in the middle, and at the end of the school year using a benchmark assessment approved by the State Board of Education;
  - report the results to a student's parent or guardian; and
  - provide information on reading interventions to a student's parent or guardian, if a student lacks proficiency in a reading skill;
- requires a school district or charter school to set and attain goals for student reading proficiency to qualify for K-3 Reading Achievement Program funding;
- requires the State Board of Education to report to the Public Education Appropriations Subcommittee:
  - an evaluation of the diagnostic assessment system for reading; and
  - on school districts' and charter schools' progress in meeting goals for student reading proficiency; and
- makes technical amendments.

### SB 38 K-3 Reading Amendments

Morgan, K.

This bill amends deadlines related to the mid-year reading assessments of first, second, and third grade students.

- amends certain deadlines for the:
  - mid-year reading assessment of first, second, and third grade students; and
  - parental notification requirements related to the mid-year reading assessment of a first, second, or third grade student who is reading below the student's grade level; and
- makes technical amendments.

### SB 59 School Grading System

Niederhauser, W.

This bill establishes a school grading system based on the performance of a school's students on statewide assessments, and for high schools, the graduation rate and measures that indicate college and career readiness.

- defines terms;
- requires the State Board of Education to establish a school grading system in which a school receives a grade of A, B, C, D, or F based on the performance of the school's students on statewide assessments, and for a high school, the graduation rate and measures that indicate college and career readiness;
- specifies the criteria upon which a school grade is based and procedures for determining a school's grade;
- imposes requirements for the reporting of a school's grade; and
- directs the State Board of Education to:
  - make rules, as necessary, to implement the school grading system; and
  - make reports and recommendations for proposed legislation to the Education Interim Committee.

### SB 65 Statewide Online Education Program

Stephenson, H.

This bill creates the Statewide Online Education Program to enable a student to earn high school graduation credit through the completion of online courses.

- establishes the purposes of the Statewide Online Education Program;
- allows an eligible student to enroll in an online course offered through the Statewide Online Education Program;
- identifies entities that may offer online courses through the Statewide Online Education Program;
- provides for the payment of online courses;
- requires reporting on the performance of online course providers;
- requires the dissemination of information on the Statewide Online Education Program;
- requires the State Board of Education to make rules;
- requires the legislative auditor general to conduct a review and issue a report on the Statewide Online Education Program;
- directs the Education Interim Committee to study the funding, administration, and other issues relating to the Statewide Online Education Program; and
- makes technical amendments.

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SB 73 Public School Teacher Tenure Modifications

Stephenson, H.

This bill amends the Utah Orderly School Termination Procedures Act to prohibit a school district from using certain termination policies.

- prohibits a school district from utilizing a last-hired, first-fired layoff policy when reducing staff;
- requires the Education Interim Committee, in consultation with the State Board of Education, to study how the performance of teachers may be evaluated for the purpose of awarding or eliminating teacher career employee status;
- defines terms; and
- makes technical changes.

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### Elections

#### HB 130 Election Day Voting Centers

Chavez-Houck, R.

This bill amends the Election Code to authorize an election officer to operate an election day voting center.

- defines terms;
- authorizes an election officer to operate a voting center at which a voter residing within the political subdivision may vote on election day;
- provides requirements for election day voting centers;
- requires a voter at an election day voting center to use a provisional ballot if the voting center is not designated as a polling place for the voter's precinct;
- requires notice of an election day voting center location;
- requires the lieutenant governor to report to an interim committee; and
- sets a repeal date for the reporting requirement to the interim committee.

#### SB 113 Election District Boundaries

Valentine, J.

This bill modifies the boundaries of certain United States House of Representatives districts, State Senate districts, and State House districts and establishes certain review and evaluation requirements for the lieutenant governor, the Automated Geographic Reference Center, and county clerks.

- modifies a portion of the common boundary between United States House of Representatives District 2 and District 3;
- modifies a portion of the common boundary between Senate District 11 and Senate District 14;
- modifies a portion of the common boundary between House District 27 and House District 57;
- establishes requirements for county clerks to submit certain maps and data to the lieutenant governor for review and evaluation;
- requires the Automated Geographic Reference Center to compare certain maps and data submitted by the county clerks with boundaries of Congressional, State School Board, Senate, and House districts as established by the Legislature's official maps; and
- makes technical changes.

#### SB 165 Election Law Amendments

Bramble, C.

This bill amends provisions in Title 20A, Election Code.

- defines terms;
- authorizes a person to vote in an election if the person registers online to vote at least 15 days before an election;
- authorizes the chief election officer to extend the time to file a financial statement in certain circumstances;
- prohibits the use of an electronic signature and requires the use of a holographic signature to:
  - qualify a candidate for the ballot;
  - qualify a ballot proposition for the ballot; or
  - sign a petition to organize and register a political party;
- requires an estimate of the cost of printing and distributing information related to a petition;
- prohibits a person from verifying the person's own signature;
- prohibits a county clerk from certifying a signature on a packet that is not verified;
- requires the county clerk to compare a signature on a packet to the voter registration database;
- authorizes the lieutenant governor or county clerk to declare a petition insufficient if all the requirements are not met;
- prohibits the sponsors of a local initiative from submitting additional signatures to qualify for a ballot in subsequent elections;
- repeals a section regarding a financial report;
- establishes the time by which a petitioner shall deliver petition packets to the county clerk and qualify a petition for the ballot;
- requires the amount of signatures necessary for an initiative or referendum to be submitted to a legislative body or qualify for placement on the ballot to be calculated based on the votes cast for President of the United States;
- clarifies when a local law subject to a referendum takes effect; and
- makes technical changes.

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### Government Operations (State Issues)

HB 328 State Government Work Week

Noel, M.

- This bill enacts Title 67, Chapter 25, Part 2, Work Week, to provide for a five-day work week for a state agency in the executive branch.
- requires a state agency in the executive branch to operate nine hours on a Monday, Tuesday, Wednesday, Thursday, and Friday; and
  - makes technical changes.

HB 477 Government Records Amendments

Dougall, J.

This bill modifies provisions of the Government Records Access and Management Act and other provisions relating to government records.

- modifies cross references;
- eliminates codified intent language;
- provides a cross reference in the Public Records Management Act to identify legislative exemptions to the act;
- makes technical and organizational modifications to modernize and clarify language;
- modifies definitions;
- provides that voice mails, instant messages, video chats, and text messages are not records subject to the act, with some exceptions;
- modifies provisions defining records that are subject to regulation by the act;
- clarifies that fee provisions may be subject to approval procedures under the Budgetary Procedures Act;
- modifies provisions governing fees and costs related to records requests;
- modifies language identifying "extraordinary circumstances" related to records requests;
- modifies provisions governing shared records procedures and application;
- modifies provisions and requirements regulating records that must be disclosed;
- provides that personal and financial information submitted to or received by a Senate confirmation committee is a private record;
- provides that personal emails or similar electronic addresses of current or former government employees or applicants are private records;
- provides protected status for certain records of the Office of the Utah State Auditor and Office of Legislative Auditor General;
- provides that records may be classified as protected if they are prepared in anticipation of litigation;
- provides that work product records may be classified as protected if the record involves anticipated or pending litigation;
- modifies the protected record status of documents prepared, received, or maintained by a legislator;
- modifies the protected record status of communications between legislators and staff in relation to performance of their official duties;
- provides that records concerning a governmental entity's strategy may be classified as protected if the record is prepared for anticipated litigation, rather than only for pending litigation;
- provides protected status for internal communications and working papers of the governor's office and modifies provisions limiting the length of protected status coverage for certain records of the governor;
- provides that data and working papers associated with a fiscal note for legislation are protected until the legislation has passed;
- provides protected status for personal email addresses and similar electronic addresses in some situations;
- prohibits a governmental entity's chief administrative officer, the records committee, and a court from releasing certain protected records via means of a balancing test unless it is determined, by a preponderance of the evidence, that the public interest favoring access to the record outweighs the interest favoring restriction of access to the record;
- provides that the Legislature may adopt policies regarding the receipt, processing, and response to record requests;
- rewrites and reorganizes the section addressing the act's application to the Legislature;
- addresses legislative compliance requirements with Title 63G, Chapter 2, Part 9, Public Associations; and
- makes technical changes.



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### Health

HB 128 Health Reform Amendments

Dunnigan, J.

This bill amends provisions related to state health system reform in the Health Code, the Insurance Code, and the Governor's Programs.

- amends the definition of third party payor in the Utah Health Data Authority Act;
- requires the Health Data Authority to publish comparative data about physician and clinic quality by October 1, 2011;
- amends the membership of the Health Data Authority;
- clarifies duties between the Department of Health, the Department of Insurance, and the Office of Consumer Health Services related to:
  - convening and supervising the health delivery and payment reform demonstration projects; and
  - regulation of insurers in the Health Insurance Exchange;
- clarifies the dental coverage for the Children's Health Insurance Program;
- amends the definition of qualified health plan that a state contractor shall offer to employees;
- establishes state authority to regulate certain practices of health insurers;
- requires group health benefit plans to have reasonable plan premium rates and to comply with standards established by the Insurance Department;
- amends small group mental health offering;
- amends provisions related to Utah NetCare;
- amends provisions related to the basic health care plan;
- prohibits an insurance customer representative from practicing independent of a producer or consultant employer, and limits a customer service representative's authority to bind coverage;
- amends small group case characteristics and allows premiums to vary based on gender;
- gives the Insurance Department the responsibility to conduct an actuarial review of rates established for the health benefit plan market;
- authorizes the department to establish a fee for the actuarial review;
- amends provisions related to the appointment of brokers to the Health Insurance Exchange;
- removes language from the Risk Adjuster Board chapter of the Insurance Code related to the actuarial review of rates;
- establishes the money in the Health Insurance Actuarial Review Restricted Account as non-lapsing;
- removes the large group market from the Health Insurance Exchange;
- clarifies the authority of the Office of Consumer Health Services to:
  - contract with private entities for the purpose of administering functions of the Health Insurance Exchange;
  - establish a call center for customer service in the exchange; and
  - charge a fee for certain functions of the exchange;
- moves language regarding insurance regulation from the Office of Consumer Health Services to the Insurance Code;
- reauthorizes the Health System Reform Task Force, including:
  - membership of the task force; and
  - duties of the task force;
- creates the Health Insurance Actuarial Review Restricted Account;
- provides intent language that fees received by the Insurance Department in 2010, for the department's actuarial review as dedicated credits, shall lapse to the Health Insurance Actuarial Review Restricted Account;
- repeals the statewide risk adjuster mechanism that was effective January 1, 2013; and
- makes technical and conforming amendments.

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SB 180 Medicaid Reform

Liljenquist, D.

This bill amends the Medical Assistance Act and the Budgetary Procedures Act.

- requires the Department of Health to develop a proposal to modify the Medicaid program in a way that maximizes replacement of the fee-for-service delivery model with one or more risk-based delivery models;
- specifies criteria for the proposal;
- requires the department, to the extent possible, to develop the proposal with the input of stakeholder groups representing those who will be affected by the proposal.
- requires the department to report to the Legislature on the development of the proposal;
- requires the department to submit a request to the Centers for Medicare and Medicaid Services for waivers from federal law to implement the proposal;
- directs the department to implement the proposal in the fiscal year following the fiscal year in which the waivers are approved;
- provides definitions;
- creates the Medicaid Growth Reduction and Budget Stabilization Account restricted account;
- specifies conditions under which Medicaid growth savings shall be transferred or appropriated to the account;
- provides that Medicaid growth savings not transferred into the account shall be included in the base budget for the second following fiscal year;
- specifies the priority of the account's claim on General Fund revenue surplus;
- specifies how money in the account may be used;
- makes conforming amendments; and
- makes technical corrections.

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### Human Services

HB 171 Abortion Clinic Licensing

Wimmer, C.

This bill amends provisions of the Health Care Facility Licensing and Inspection Act in relation to abortion clinics.

- defines terms;
- requires annual licensing for abortion clinics that provide abortions during the first and second trimesters of pregnancy;
- grants rulemaking authority to the Department of Health (department) in relation to licensing of abortion clinics;
- requires, in order for an abortion clinic to obtain and maintain a license, that the abortion clinic comply with statutory requirements, rules, health and safety standards, and recordkeeping requirements;
- requires inspection of abortion clinics;
- requires the department to establish a fee on abortion clinics to pay for the costs relating to this bill;
- modifies exemptions from the Health Care Facility Licensing and Inspection Act;
- in order to assist the department in fulfilling the requirements of this bill, requires the Division of Occupational and Professional Licensing to provide the department with the name and address of each physician who reports that they perform elective abortions in Utah in a location other than a hospital;
- provides that the information described in the preceding paragraph is a protected record;
- provides intent language; and
- makes technical changes.

SB 124 Leaving a Child Unattended in a Motor Vehicle

McAdams, B.

This bill amends the Utah Criminal Code by making it a class C misdemeanor to leave a child unattended in an enclosed compartment of a motor vehicle.

- defines terms;
- makes it a class C misdemeanor for a person who is responsible for a child under nine years of age to intentionally, recklessly, knowingly, or with criminal negligence leave a child in an enclosed compartment of a motor vehicle if:
  - the motor vehicle is on public property or private property that is open to the general public;
  - the child is not supervised by a person who is at least nine years old; and
  - the conditions present a risk to the child of hyperthermia, hypothermia, or dehydration;
- provides that this bill does not apply if the person's conduct that constitutes a violation of this bill is subject to a greater penalty under another provision of state law;
- preempts enforcement of a local law or ordinance that makes it an infraction or a criminal offense to engage in the conduct that constitutes a misdemeanor under this bill;
- provides that, notwithstanding any provision of state law to the contrary, a conviction under this bill may not be used by a state or local government entity as grounds for revoking, refusing to grant, or refusing to renew, a license or permit, including a license or permit relating to the provision of day care or child care.

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### Immigration

HB 497 Utah Illegal Immigration Enforcement Act

Sandstrom, S.

This bill modifies state law and enacts "The Illegal Immigration Enforcement Act."

- requires that an officer verify the immigration status of a person arrested for a felony or a class A misdemeanor and a person booked for class B or C misdemeanors and requires that an officer attempt to verify immigration status for a person detained for a class B or C misdemeanor;
- provides enforcement exceptions regarding an officer's verifying immigration status;
- clarifies when passengers in a vehicle where the operator has been detained may also be questioned and their immigration status verified;
- requires that a law enforcement officer may not consider race, color, or national origin, except as permitted by Utah and United States constitutions;
- states grounds for a presumption of a person's lawful presence in the United States;
- provides for transportation of an illegal alien to federal custody by a state or local law enforcement officer;
- provides that a state or local agency may not limit by ordinance, regulation, or policy the authority of any law enforcement or other governmental agency to assist the federal government in the enforcement of any federal immigration law, including the federal requirement to register as an alien or possess an alien registration document;
- provides that any state or local governmental agency is not restricted in sending, receiving, or maintaining immigration status information of any person in carrying out the agency's lawful purposes;
- requires verification of immigration status regarding application for public services or benefits provided by a state or local governmental agency or subcontractor, except as exempted by federal law;
- provides that this bill does not implement or authorize the federal REAL ID Act to any extent not currently provided by state law;
- amends the current state law prohibiting transporting or harboring illegal aliens by removing the limitation to transportation of the alien for a distance greater than 100 miles;
- prohibits the encouraging or inducing of an illegal alien to come to or reside in Utah; and
- amends peace officer arrest authority to include making an arrest when the officer has reasonable cause to believe the person is an alien:
  - subject to an immigration removal order; and
  - regarding whom a detainer warrant has been issued who has committed or been charged with a felony in another state.

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### Judicial Administration

SB 212            Judicial Evaluation Amendments

Buttars, D. C.

This bill makes amendments to the Judicial Performance Evaluation Commission.

- allows the Judicial Performance Evaluation Commission to vote in a closed meeting on whether or not to recommend that the voters retain a judge;
- requires that any record of an individual commissioner's vote be a protected record under Title 63G, Chapter 2, Government Records Access and Management Act;
- removes litigants from the judicial performance evaluation survey;
- reduces the number of categories to be included in the performance evaluation survey;
- allows survey respondents to supplement responses to survey questions with written comments;
- establishes a clear minimum performance standard;
- establishes that the judicial performance evaluation survey is to be reported in three categories: legal ability, judicial temperament and integrity, and administrative abilities;
- allows only a judge who is the subject of an unfavorable retention recommendation to meet with the commission about its recommendation;
- allows the judicial performance evaluation commission to only report public discipline that a judge has received; and
- makes technical corrections.

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### Law Enforcement and Criminal Justice

HB 23            Controlled Substance Modifications

Froerer, G.

- This bill modifies provisions relating to the Utah Controlled Substances Act by creating a controlled class of listed synthetic cannabinoid substances found in products often referred to as "spice."
- expands the definition of a controlled substance to include a list of synthetic equivalent cannabinoid substances and their analogs and homologs found in products commonly referred to as "spice";
  - expands the definition of a controlled substance to include substances and their analogs and homologs found in products referred to as "bath salts";
  - clarifies that the tetrahydrocannabinols in Schedule I of the Utah Controlled Substances Act include those both naturally and synthetically derived;
  - provides that it is an affirmative defense that the person produced, possessed, or administered any of these listed substances if the person:
    - was engaged in medical research; and
    - was a holder of a license to possess controlled substances for research;
  - authorizes the Controlled Substances Advisory Committee to recommend placement of a substance on a controlled substance list if it finds that the substance has a potential for abuse and that an accepted standard has not been established for safe use in treatment for medical purposes;
  - adds "spice" to the driver license provisions regarding driving under the influence; and
  - provides that a legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of the Utah Controlled Substances Act.

SB 147            Forgery Law Amendments

Madsen, M.

- This bill modifies the Criminal Code's forgery statutes relating to the production of false identification and false financial transaction cards without lawful authority.
- provides a penalty of a second degree felony for a person guilty of producing, possessing, or transferring false identification documents and false financial transaction cards who:
    - knowingly and without lawful authority produces, attempts, or conspires to produce an identification document, authentication feature, or a false identification document that is or appears to be issued by or under the authority of a governmental entity;
    - transfers an identification document, authentication feature, a false identification document, or false financial transaction card knowing that the document or feature was stolen or produced without lawful authority;
    - possesses with intent to unlawfully use or transfer for another person's unlawful use one or more identification documents, false financial transaction cards, authentication features, or false identification documents;
    - produces, transfers, or possesses a document-making implement or authentication feature with the intent that the document- making implement or the authentication feature be used in the production of a false identification document or another document-making implement or authentication feature; or
    - traffics in false or actual authentication features for use in false identification documents, document-making implements, or means of identification;
  - provides exceptions for an authorized law enforcement agency; and
  - provides for the forfeiture, destruction, or other disposition of all illicit authentication features, identification documents, document-making implements, or means of identification.

## SELECTED HIGHLIGHTS of the 2011 General Session

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### Military Services

HB 384 Veterans Preference Amendments

Cosgrove, T.

This bill provides exceptions to professional state licensure for veterans and active duty spouses.

- provides an exception to state licensure for active duty spouses for some professions provided the spouse holds a license in another recognized jurisdiction and the license is valid and in good standing;
- allows the Department of Health to take military education, training, and experience into consideration when certifying or licensing persons under the Emergency Medical Services System; and
- adds military education and training programs to programs the Division of Occupational and Professional Licensing considers for licensing.

SB 66 Military Leave for an Elected Official of a Political Subdivision

Valentine, J.

This bill amends Title 20A, Election Code, to authorize an elected official of a political subdivision to take military leave.

- defines terms;
- authorizes an elected official of a political subdivision to take military leave;
- authorizes the governing body to:
  - appoint a temporary replacement for an elected official who takes military leave;
  - establish the distribution of the emoluments of the office between the elected official and the temporary replacement; and
  - establish an application process; and
- makes technical changes.

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### Natural Resources

#### HB 399 Environmental Litigation Bond

Noel, M.

This bill requires a plaintiff requesting a preliminary injunction or an administrative stay to post a bond.

- requires a plaintiff to post a bond before receiving a preliminary injunction or administrative stay;
- requires an unsuccessful plaintiff to pay damages to defendants who are harmed by a preliminary injunction or administrative stay; and
- provides for an immediate appeal of a court's or agency's refusal to require the bond.

#### SB 32 Agriculture Amendments

Okerlund, R.

This bill makes changes to programs and duties of the Department of Agriculture and Food, including the Conservation Commission.

- defines terms;
- requires the department to participate in an agricultural mediation program;
- requires the department to promote and support multiple use of public lands, including acting as a mediator concerning public lands issues;
- allows the commissioner to establish advisory committees with the permission of the governor;
- limits the scope of Title 4, Chapter 7, Agricultural Products and Livestock Dealers' Act, to livestock-related concerns and makes related changes to that chapter;
- eliminates a provision for the department to grant an annual license, instead of a triennial license, to a pesticide dealer;
- allows the department to use dedicated credits for improving rangeland health;
- allows the department to use certain restricted account money for the purchase of a conservation easement;
- changes a provision that decreases payment of the Beef Promotion Fee by the amount of a federal beef promotion assessment to require the payment of both fees;
- states legislative findings regarding the local production of food and the importance of agriculture to the state;
- requires the state to offer a "certification of environmental stewardship" to qualifying agricultural producers in the state;
- gives new duties to the Conservation Commission, including:
  - expanding the use of certain loan funds;
  - developing the requirements of the certification of environmental stewardship, including determining best management practices, state technical standards, and nutrient management plans;
  - providing certifications of environmental stewardship to qualifying agricultural producers in the state; and
  - developing the requirements to be a "certified conservation planner";
- grants rulemaking authority to the commission;
- changes the definition of "farm custom mobile unit";
- removes the requirement that a person who raises an animal may only slaughter an animal without a farm custom slaughter license if the animal is slaughtered on property owned by the person; and
- makes technical changes.

#### SB 85 Legal Notice Amendments

Urquhart, S.

This bill addresses the publication of statutorily required legal notices.

- defines terms;
- requires a newspaper that publishes a legal notice in the newspaper to charge no more than its average advertisement rate;
- requires a newspaper that publishes a legal notice in the newspaper to publish the legal notice on a public legal notice website at no additional cost;
- establishes legal notice requirements for special service districts;
- eliminates an exception from publication requirements for a county of the first or second class;
- exempts a notice of delinquency in the payment of property taxes from certain publication requirements; and
- makes technical changes.

#### SB 108 Joint Use of a Canal or Ditch

Stowell, D.

This bill requires a person to negotiate in good faith to form a written contract before the use or enlargement of another person's canal or ditch to convey water.

- requires a person to negotiate in good faith to form a written contract before the use or enlargement of another person's canal or ditch to convey water;
- prohibits a person seeking to use or enlarge another person's canal or ditch from relying on the right-of-way provisions of Section 73-1-6 unless the person has, after negotiating in good faith, failed to enter into a written contract;
- describes certain obligations of a person using another person's canal or ditch unless otherwise agreed to by written contract; and
- makes technical changes.



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SB 221 State of Utah Resource Management Plan for Federal Lands

Okerlund, R.

This bill establishes a state land use planning and management program.

- provides definitions, including the lands subject to the state land use planning and management program; and
- adopts a multiple use policy for the specified lands, including:

opposing the federal designation, management, or treatment of specified lands in a manner that resembles wilderness or wilderness study areas, including the use of the non-impairment standard applicable to wilderness study areas;

achieving and maintaining at the highest reasonably sustainable levels a continuing yield of energy, hard rock, and natural resources in specified lands;

achieving and maintaining livestock grazing in the specified lands at the highest reasonably sustainable levels;

managing the watershed in the specified lands to achieve and maintain water resources at the highest reasonably sustainable levels;

achieving and maintaining traditional access to outdoor recreational opportunities in the specified lands;

managing the specified lands so as to protect prehistoric rock art, artifacts, and other culturally important items found on the specified lands;

managing the specified lands so as not to interfere with the property rights of adjacent property owners;

managing the specified lands so as not to interfere with school trust lands; and

discouraging a federal classification of specified lands as areas of critical environmental concern or areas with visual resource management class I or II rating.

## SELECTED HIGHLIGHTS of the 2011 General Session

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### Political Subdivisions (Local Issues)

HB 268 Municipal Enforcement Regarding Property Maintenance

Morley, M.

This bill amends provisions related to a municipality's authority to regulate the inspection and abatement of property.

- amends provisions related to a municipality's authority to regulate the inspection and abatement of property;
- amends provisions related to a municipal inspector;
- amends notice provisions;
- amends provisions authorizing a municipality to file suit against a property owner or certify costs and expenses with the treasurer of the county; and
- makes technical corrections.

SB 155 Political Subdivision's Procurement Process for Construction Projects

McAdams, B.

This bill amends requirements for a local entity to undertake a building improvement or public works project.

- authorizes a municipality to adopt procedures of Title 63G, Chapter 6, Utah Procurement Code, with certain exceptions;
- authorizes a local entity to adopt procedures for certain construction methods; and
- makes technical corrections.

SB 172 Political Subdivisions Administration Amendments

Stephenson, H.

This bill prohibits a political subdivision from appointing or hiring, in certain circumstances, a manager or similar position during an interim vacancy period.

- defines terms;
- prohibits a council in a municipal council-manager form of government from:
  - appointing a manager during an interim vacancy period; and
  - entering into a contract that contains an automatic renewal provision on or after May 10, 2011, with a manager;
- prohibits a mayor in a municipal council-mayor form of government from:
  - appointing a chief administrative officer during an interim vacancy period; and
  - entering into a contract that contains an automatic renewal provision on or after May 10, 2011, with a chief administrative officer;
- prohibits a council in a municipal six-member council form of government from:
  - appointing a manager during an interim vacancy period; and
  - entering into a contract that contains an automatic renewal provision on or after May 10, 2011, with a manager;
- prohibits a council in a municipal five-member council form of government from:
  - appointing a manager during an interim vacancy period; and
  - entering into a contract that contains an automatic renewal provision on or after May 10, 2011, with a manager;
- prohibits a council in a county council-manager form of government from:
  - appointing a county manager during an interim vacancy period; and
  - entering into a contract that contains an automatic renewal provision on or after May 10, 2011, with a county manager;
- prohibits a county executive from:
  - appointing a manager, a chief executive officer, a chief administrative officer, or a similar position during an interim vacancy period; and
  - entering into a contract on or after May 10, 2011, that contains an automatic renewal provision with a chief executive officer, a chief administrative officer, or a similar position;
- prohibits a local district from:
  - hiring a manager, a chief executive officer, a chief administrative officer, or a similar position during an interim vacancy period; and
  - entering into a contract on or after May 10, 2011, that contains an automatic renewal provision with a manager, a chief executive officer, a chief administrative officer, or a similar position;
- prohibits a special service district from:
  - hiring a manager, a chief executive officer, a chief administrative officer, or a similar position during an interim vacancy period; and
  - entering into a contract on or after May 10, 2011, that contains an automatic renewal provision with a manager, a chief executive officer, a chief administrative officer, or a similar position;
- prohibits a local school board from:
  - appointing a superintendent during an interim vacancy period; and
  - entering into a contract on or after May 10, 2011, that contains an automatic renewal provision with a superintendent; and
- makes technical corrections.

## **SELECTED HIGHLIGHTS of the 2011 General Session**

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SB 243          Historic Areas or Sites Amendments

Niederhauser, W.

This bill enacts language related to municipal land use provisions and historic districts or areas.

- prohibits a city of the first class in a county of the first class from establishing a local historic district or area in certain circumstances;
- prohibits a municipality from reviewing a land use application in certain circumstances; and
- makes technical corrections.

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### Public Utilities

SB 111            Utilities - Underground Facilities and Pipelines

Jenkins, S.

This bill addresses utility facilities, including underground facilities and pipelines.

- defines "location" for utility facility marking purposes;
- provides for the marking of underground utilities;
- addresses communication between excavators and operators of utility facilities;
- provides for a utility facility operator's optional waiver of limitations on excavation with power tools in the vicinity of a utility facility;
- provides for liability for an operator that fails to mark a facility, leading to damage of another operator's facility;
- increases the amount of civil penalty for certain violations;
- provides for a penalty for violations of Title 54, Chapter 13, Natural Gas Pipeline Safety; and
- makes technical changes.

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### Resolutions

HJR 10 Rules Resolution on Electronic Meetings

Menlove, R.

This resolution authorizes legislative interim committees, task forces, and subcommittees to allow some members to participate in the meeting electronically from a remote location. This resolution:

- authorizes certain legislative committees to conduct electronic meetings; and
- establishes standards and requirements for notice and conduct of those meetings.

HJR 38 Joint Resolution to Amend Rule of Evidence

Dunnigan, J.

This joint resolution amends Utah Rule of Evidence, Rule 409 regarding expressions of apology by health care professionals and employees. This resolution:

- amends Utah Rule of Evidence, Rule 409 regarding expressions of apology by health care professionals and employees.

SCR 1 Crisis Intervention Team Program Concurrent Resolution

Jones, P.

This concurrent resolution of the Legislature and the Governor recognizes the positive approach and best practices of the Crisis Intervention Team Program and encourages development of active crisis intervention team programs statewide. This resolution:

- recognizes the Crisis Intervention Team Program training as the model of best practice for law enforcement intervention with persons who have a mental illness; and
- encourages law enforcement agencies and community mental health centers to work together in conjunction with other community partners to:
  - have a cadre of certified Crisis Intervention Team-trained officers in all jurisdictions; and
  - develop and maintain active crisis intervention team programs regionally throughout the state.

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### Retirement

#### SB 127 Post Retirement Employment Amendments

Liljenquist, D.

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending provisions related to a retiree who returns to work for a participating employer.

- allows a retiree who begins reemployment with a participating employer on or after July 1, 2010, to be reemployed within one year if:
  - the retiree does not receive any employer paid benefits; and
  - the retiree does not earn more than a certain amount for any calendar year;
- recalculates the one-year separation requirement if a retiree is reemployed within one year; and
- makes technical changes.

#### SB 308 Amendments to Public Employee's Benefit and Insurance Program

Liljenquist, D.

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending retirement and long-term disability provisions.

- clarifies in the Utah Workforce Services Code that only a person who is eligible to purchase service credit under the Utah Retirement Systems may purchase service credit in those systems;
- amends definitions;
- clarifies that an employee who elects to participate exclusively in the defined contribution plan may not purchase service credit for that period of employment;
- provides that only an active member may purchase service credit in the Utah Retirement Systems;
- clarifies that Social Security substitute payments are not limited for purposes of post-retirement employment retirement related contributions made on behalf of an employee;
- provides that reemployment restrictions for a person who begins reemployment after July 1, 2010, do not apply to employment as an elected official if the elected position is not full-time;
- provides that a participating employer must provide information requested by the Utah State Retirement Office electronically in a manner approved by the office;
- provides that a participating employer shall treat any information provided to the office as subject to certain confidentiality restrictions;
- provides that a person who is dissatisfied by a ruling of the executive director or deputy director regarding a medical claim may request a ruling by an external reviewer in accordance with federal law;
- requires the Utah State Retirement Office to fund the long-term disability benefits for new volunteer firefighters using certain insurance premium tax revenues formerly deposited in the Firefighters' Retirement Trust Fund;
  - provides that a member must cease employment with any participating employer to be eligible to receive a retirement allowance;
  - modifies the timing of adjusted retirement benefit payments and standardizes language for applying for benefits following the death of a retiree or a retiree's spouse under certain retirement options;
  - clarifies that new governors and legislators who are only eligible for a Tier II retirement system may be eligible for a paid-up group health coverage policy for members and their surviving spouses;
  - provides that Tier II new employees and employees who are exempt from the retirement systems are eligible for long-term disability coverage;
  - provides that an employee is not eligible for long-term disability benefits if the employee has a pending action before any federal administrative body in which the employee has made a claim that the employee is able to work;
- repeals a requirement that an eligible employee first apply at the earliest eligible age for all unreduced retirement benefits to get long-term disability benefits;
- provides for the time periods for which a new Tier II employee under a defined contribution plan is eligible for long-term disability benefits consistent with other Tier II new employees;
- provides that an elected official, instead of only a governor and a legislator, initially entering office on or after July 1, 2011, is only eligible to participate in the Tier II defined contribution plan;
- provides that an elected official and appointive official are eligible for Tier II retirement benefits if they are defined as full-time employees;
- provides that a person initially entering regular full-time employment after July 1, 2011, has one year instead of 30 days to make an irrevocable election between a Tier II Hybrid Retirement System and a Tier II defined contribution retirement plan and that the election must be submitted electronically;
- allows the Legislature to decrease benefits in the defined benefit portion of the Tier II Hybrid Retirement System for new public employees and new public safety and firefighter employees for future years of service under certain conditions;
  - provides that vesting of the defined contribution balance occurs upon accruing four years of service credit instead of four years from the date of employment under the Tier II Hybrid Retirement System;
  - defines eligibility to receive a retirement allowance for a benefit tied to a retirement date for members in a defined contribution plan;
  - allows an offset for administrative costs for forfeited defined contribution accounts; and
  - makes technical changes.

## SELECTED HIGHLIGHTS of the 2011 General Session

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### Revenue and Taxation

SB 16 State Tax Commission Tax, Fee, or Charge Administration and Collection Amendments

Niederhauser, W.

This bill addresses the administration and collection of taxes, fees, or charges the State Tax Commission collects and enforces.

- defines terms;
- renames the Sales and Use Tax Administrative Fees Account to the State Tax Commission Administrative Charge Account;
- specifies the taxes, fees, and charges and the amount of the taxes, fees, and charges that the State Tax Commission shall retain and deposit into the State Tax Commission Administrative Charge Account;
- provides procedures and requirements for administering the State Tax Commission Administrative Charge Account;
- addresses the taxes, fees, and charges that are subject to certain sales and use tax collection and administration provisions;
- addresses the frequency with which certain taxes, fees, or charges are required to be paid to the State Tax Commission; and
- makes technical and conforming changes.

SB 21 Tax Revisions

Niederhauser, W.

This bill amends the Property Tax Act, the Individual Income Tax Act, and related provisions to address procedures related to the property tax residential exemption and the determination of domicile for individual income tax purposes.

- requires a property owner to provide certain notice to the county board of equalization and make a declaration on the property owner's individual income tax return if the property owner is no longer eligible to receive a property tax residential exemption for the property owner's primary residence;
- allows the State Tax Commission to provide information to a county on a property owner's declaration on an individual income tax return that the property owner is no longer eligible to receive a property tax residential exemption for the property owner's primary residence;
- addresses the determination of domicile for purposes of Title 59, Chapter 10, Individual Income Tax Act; and
- makes technical and conforming changes.

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### Task Force / Committees

HB 428 Water Issues Task Force

Painter, P.

This bill creates the Water Issues Task Force.

- creates the Water Issues Task Force;
- provides for membership of the task force and compensation for members; and
- specifies duties and responsibilities of the task force.

SB 48 Alzheimer's State Plan Task Force

Morgan, K.

This bill establishes an Alzheimer's State Plan Task Force within the Division of Aging and Adult Services in the Department of Human Services.

- defines terms;
- creates the Alzheimer's State Plan Task Force within the Division of Aging and Adult Services in the Department of Human Services;
- describes the membership of, and provides staff support for, the task force;
- provides that members of the task force are not entitled to compensation, but may receive per diem and travel expenses;
- provides that the task force does not go into effect until at least \$25,000 has been deposited into the Alzheimer's State Plan Task Force Restricted Account;
- addresses requirements relating to a quorum, actions, and meetings of the task force;
- describes the duties of the task force;
- requires the task force to complete its duties and submit a report on its findings and recommendations to the Health and Human Services Interim Committee on or before its November 2011 meeting; and
- creates the Alzheimer's State Plan Task Force Restricted Account.



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### Transportation

HB 34 Department of Transportation Settlement Agreement Amendments

Fisher, Julie

This bill modifies the State Settlement Agreements Act by amending provisions relating to certain Department of Transportation construction contract claim settlement agreements and settlement agreements that resolve bid or request for proposal protests.

- provides definitions;
- requires the Department of Transportation to obtain approval of the Transportation Commission or the governor or review by the Legislative Management Committee for certain construction contract claim settlement agreements if the claim is being recommended by the Department of Transportation's claims review board;
- prohibits the Department of Transportation from entering into a construction contract claim settlement agreement that is being recommended by the Department of Transportation's claims review board in certain circumstances until the Transportation Commission or the governor has approved the agreement or the Legislative Management Committee has reviewed the agreement;
- requires the Department of Transportation to obtain approval of the Transportation Commission or the governor or review by the Legislative Management Committee for certain settlement agreements that resolve a bid or request for proposal protest; and
- prohibits the Department of Transportation from entering into a settlement agreement that resolves a bid or request for proposal protest in certain circumstances until the Transportation Commission or the governor has approved the agreement or the Legislative Management Committee has reviewed the agreement.

SB 28 Alcohol or Drug Related Offense Amendments

Jenkins, S.

This bill modifies provisions relating to the driver license suspension period and other sentencing requirements for certain alcohol or drug related offenses.

- amends the administrative suspension periods for certain alcohol related offenses;
- amends the driver license suspension period for a person convicted of certain alcohol or drug related offenses;
- provides that a court may shorten a person's driver license suspension period for certain alcohol or drug related offenses prior to the completion of the suspension period if the person completes certain requirements; and
- makes technical changes.

SB 138 Driver License Qualification Amendments

Bramble, C.

This bill modifies the Public Safety Code by amending provisions relating to driver license qualifications.

- requires every applicant for a driving privilege card to submit fingerprints and a photograph with an application to the Driver License Division;
- requires a person that renews a driving privilege card to submit fingerprints and a photograph to the Driver License Division if the person has not previously submitted fingerprints and a photograph to the division;
- requires that the fingerprinting and photograph submission required shall be conducted by the Bureau of Criminal Identification or a law enforcement agency that has the capability of handling fingerprint and photograph submissions;
- provides that the Driver License Division shall submit fingerprints for each applicant or cardholder to the Bureau of Criminal Identification;
- requires the Bureau of Criminal Identification to:
  - compare driving privilege card applicant or cardholder fingerprints with certain criminal databases and make certain notifications; and
  - maintain a separate file of driving privilege applicant and cardholder fingerprints and make certain notifications when new entries are made on a person's file;
- requires the Driver License Division to:
  - impose the fees that the Bureau of Criminal Identification is authorized to collect for certain services; and
  - remit the fees collected to the Bureau of Criminal Identification; and
- makes technical changes.

SB 229 Transportation Funding Revisions

Adams, J. S.

This bill modifies the Sales and Use Tax Act by amending provisions relating to transportation funding.

- for a fiscal year beginning on or after July 1, 2012, increases the amount of certain sales and use tax revenue that is deposited into the Centennial Highway Fund or the Transportation Investment Fund of 2005 in certain circumstances; and
- makes technical changes.