

# Legislation Passed in the Fifth Special Session

June 25, 2020

The Office of Legislative Research and General Counsel (OLRGC) has compiled summaries of legislation passed during the Fifth Special Session of the Sixty-Third Utah Legislature. These summaries are intended to be general in nature. To read the legislation in its entirety, click on the link provided in this document or visit <https://le.utah.gov>.

OLRGC is a nonpartisan staff office of the Legislature and the contents of this document should not be considered support for or opposition to the legislation.

## [H.B. 5002, Open and Public Meetings Act Amendments](#)

This bill permits a public body to hold an electronic meeting without an anchor location if the public body determines that conducting the meeting with an anchor location presents a substantial risk to the health and safety of those who may be present at the anchor location.

For electronic meetings held without an anchor location, the bill requires the public body to include the reasons for the health and safety risk determination in the public notice for the meeting and state them at the beginning of the meeting, provide means by which the public may hear, or view and hear, the open portions of the meeting, and provide a means by which the public can provide comments electronically to the public body. The bill also removes the requirement for a posted written notice at the anchor location, for meetings held without an anchor location.

## [1st Substitute H.B. 5003, School District Use of Property Tax Revenue](#)

This bill allows a local school board to use revenue from the capital local levy for operational expenses for the fiscal years beginning on July 1, 2020, and July 1, 2021. The bill also places notice, hearing, and approval requirements on a local school board that uses revenue from the capital local levy for operational expenses.

## [H.B. 5004, Airport-related Alcohol Modifications](#)

This bill makes three alcohol-related policy changes that are tailored to an airport environment to improve efficiency at the new Salt Lake City International Airport.

- The number of airport lounge licenses is set at 13. Licenses have been tied to the number of people that go through the airport, however, this

quota system has been problematic since COVID-19 has reduced ridership.

- A lease agreement in which the lessee is an airport lounge licensee is exempt from percentage lease agreement provisions.
- Permits a central receiving and distribution center at the airport to obtain a liquor transport license to pick up and transport liquor from a state store or package agency, receive, screen and store the product, and deliver it to airport licensees.

## [1st Substitute H.B. 5005, Revisor's Technical Corrections to Utah Code](#)

This bill modifies provisions of the Utah Code to make technical corrections, including eliminating references to repealed provisions, making minor wording changes, updating cross-references, eliminating redundant or obsolete language, and correcting numbering and other errors.

## [H.B. 5006, COVID-19 Workers' Compensation Modifications](#)

This bill moves provisions regarding coverage for first responders diagnosed with COVID-19 from the Workers' Compensation Act to the Utah Occupational Disease Act to characterize contracting COVID-19 as getting a disease, rather than having an accident. The definition of first responder is also redefined by listing out certain occupations, rather than citing the definition of *emergency responder* and *health care provider* in the Code of Federal Regulations. It clarifies that a first responder must provide written documentation of a COVID-19 diagnosis to their employer or insurer for coverage. Finally, the bill clarifies how to calculate the benefits for volunteers, such as volunteer firefighters, by using the state's minimum wage and the number of volunteer hours to determine their disability rate.

## [1st Substitute H.B. 5007, Peace Officer Amendments](#)

This bill prohibits the training of peace officers in the use of chokeholds, carotid restraints, or other methods of restraint that may impede breathing or blood circulation and cause unconsciousness. Peace officers are prohibited from employing a "knee on the neck" method of restraint that may impede breathing or blood circulation and cause unconsciousness. If a peace officer violates the prohibition it is a third degree felony. The penalty increases to a second degree felony if the violation results in serious bodily injury or loss of consciousness,

and to a first degree felony if the violation results in death.

### [H.B. 5009, Emergency Management Act Procurement Process Amendments](#)

This bill requires the Governor, during an epidemic or pandemic disease emergency, to provide notice to the Legislature within 24 hours of an expenditure or procurement that:

- is greater than \$2 million;
- uses federal funds received by the state to provide financial assistance to individuals adversely affected by the state of emergency; and
- is made using statutory emergency procurement processes.

This notice requirement is repealed on December 31, 2021.

### [H.B. 5010, COVID-19 Economic Recovery Program](#)

This bill creates several targeted assistance programs related to the economic impacts of COVID-19 and a public information campaign to encourage healthy behavior by Utah residents during the COVID-19 pandemic.

- **COVID-19 Impacted Businesses Grant Program** – Establishes a tax-exempt grant program administered by GOED to provide grants to businesses negatively impacted by COVID-19 in an amount equal to or less than the decline in revenue due to COVID-19 between March and June 2020. *Appropriation: \$25M*
- **COVID-19 Cultural Assistance Grant Program** – Establishes a tax-exempt grant program administered by the Department of Heritage and Arts in consultation with GOED to provide grants to organizations that provide a cultural, artistic, botanical, recreational, or zoological activity that encourages travel and tourism in the state. *Appropriation: \$9M*
- **COVID-19 PPE Support Grant Program** – Establishes a tax-exempt grant program administered by GOED to provide grants to businesses to improve workplace safety for workers and customers during the COVID-19 pandemic through measures such as PPE purchases, workplace redesigns, signage, and technology solutions that allow for distance working. *Appropriation: \$5M*

- **COVID-19 Displaced Worker Grant Program** – Provides training for workers displaced due to COVID-19 by creating a program within GOED's Utah Works and appropriating money to USHE's Custom Fit program. Also appropriates money to DWS to create a dashboard to identify unemployment and job opening trends to better match workers with job opportunities. *Appropriation: \$9M*
- **COVID-19 Outreach and Education Program** – Creates a public information campaign to encourage healthy activity during the COVID-19 pandemic such as following health guidelines and not forgoing medical care, including preventative care, urgent care, and vaccinations. *Appropriation: \$1M*
- **Additional Appropriations** – Appropriates money to provide basic needs assistance for COVID-19 impacts. Also appropriates money to provide translation services and technology for service providers working to address COVID-19 impacts. Also appropriates money to GOED for tourism marketing and facilitating tourist access to national parks and surrounding communities. *Appropriation: \$13M*

### [H.B. 5011, WPU Value Increase Guarantee](#)

This bill provides that certain revenue be dedicated annually to increase the value of the weighted pupil unit (WPU), up to a cumulative amount of \$140,500,000 (the cost avoided by replacing the 6% increase to the value of the WPU initially funded in the fiscal year 2021 public education budget with the 1.8% increase to the value of the WPU included in H.B. 5012, Public Education Budget Amendments). The bill amends a section of code that only takes effect if the amendment to the Utah Constitution proposed by S.J.R. 9, Proposal to Amend Utah Constitution – Use of Tax Revenue, 2020 General Session, is approved by a majority of those voting on it in the next general election.

### [1st Substitute H.J.R. 501, Joint Resolution Approving Utah Department of Corrections Settlement Agreement](#)

This resolution approves the negotiated settlement agreement for Ronald May et al. v. Utah Department of Corrections regarding Chronic Hepatitis C treatment for Utah Department of Corrections inmates.

### [H.J.R. 502, Joint Resolution on Legislative Compensation](#)

The Legislative Compensation Commission recommended in its 2020 report that the daily salary rate for legislators increase from \$285 per day to \$292 per day. This resolution rejects the commission's recommended increase, maintaining legislators' daily salary rate at \$285 per day.

### [H.J.R. 503, Joint Resolution Approving Purchase of Properties](#)

This resolution authorizes Division of Facilities Construction and Management (DFCM) to purchase two properties for approximately \$650,000. The acquisition is necessary to mitigate environmental damage done to the properties from a leaking gasoline storage on adjacent property because attempts to coordinate cleanup of the leaked gasoline into the aquifer have failed. Funds for the purchase will come from the Division of Fleet Operations. Once remediation work is complete, the properties could be sold and the proceeds of the sale will go to the Division of Fleet Operations, less any costs for DFCM to do the remediation work.

### [H.J.R. 504, Joint Resolution Further Extending the State of Emergency due to the Infectious Disease COVID-19 Novel Coronavirus](#)

The Governor issued an executive order declaring a state of emergency due to COVID-19 on March 6, 2020, which was extended by the Legislature to June 30, 2020. This resolution further extends the state of emergency to August 20, 2020.

### [S.B. 5001, Budget Balancing and Coronavirus Relief Appropriations Adjustments, and H.B. 5012 Public Education Budget Amendments](#)

These bills make appropriations adjustments to balance the state budget for FY 2020 and FY 2021, in accordance with revenue estimates that project a decline from February 2020 revenue estimates of (\$757 million) ongoing and (\$93 million) one-time. These bills:

- [Reverse most new General/Education Fund appropriations](#) from the 2020 General Session.
- [Restore high-priority new funding items](#), including funding for Medicaid growth, homelessness and affordable housing, mental health services, public education enrollment, and a 1.8% increase in the value of the weighted pupil unit (WPU).

- Reduce base budgets by \$340 million ongoing and \$82 million one-time (4.1% ongoing and 1.0% one-time statewide).
- After accounting for restoration of new money, reduce ongoing state base budgets by \$135 million or 1.6%.
- Use the following reserves:
  - \$52 million ongoing from the Public Education Economic Stabilization Account and \$56 million ongoing from the Medicaid Restricted Account, offset by one-time appropriations to assure temporal balance.
  - \$770 million in positive cashflow created in the 2020 Third Special Session to address the delay in income tax return filing.
  - \$197 million ongoing from "working" rainy day funds: \$110 million from prison construction and \$87 million from the higher education capital development fund.
  - \$341 million one-time from "working" rainy day funds from elimination of construction projects on college campuses.
  - \$42 million one-time from operating reserves from restricted account balances (\$11 million from the Public Employees Health Plan reserve, \$12 million from unclaimed property, \$19 million from various funding swaps).
  - \$100 million one-time from budgetary reserves (formal rainy day funds) to avoid a possible deficit in FY 2020.
- Appropriate \$280 million from the federal Coronavirus Relief Fund, part of the CARES Act; the Legislature previously appropriated \$255 million of the \$688 million allocation.

### [H.B. 5012, Public Education Budget Amendments](#),

also amends and enacts provisions related to certain fiscal year 2021 public education budget adjustments (see **Appendix A** for a summary of each change) and repeals statutes creating the following public education programs: weighted pupil units for small school district and charter school administrative costs, early graduation incentives (Centennial scholarships), Math and Science Opportunities for Students and Teachers Program, salary supplement for National Board certified teachers, intensive special education costs, and rural school extracurricular activities reimbursement.

### [S.B. 5002, Changes to Procurement Code](#)

This bill clarifies that an evaluation committee may not change its final recommended scores after the evaluation

committee has submitted those scores to the procurement unit.

### **[S.B. 5003, COVID-19 Immunity Provisions](#)**

This bill addresses the relationship between the governmental immunity act and immunity related to exposure to COVID-19.

### **[1st Substitute S.B. 5004, Municipal Annexation Amendments](#)**

Current law prohibits an annexation petition in any county if the area is included in a pending incorporation process. This bill creates two exceptions to this prohibition:

- The prohibition doesn't apply if a person files a notice of intent to file an annexation petition by August 5, 2020, which doesn't apply to an annexation in a first class county.
- The prohibition also doesn't apply if a person files an annexation petition on or after Nov 15, 2020, for an annexation located anywhere except a first class county.

### **[S.B. 5005, Rent and Mortgage Assistance Amendments](#)**

This bill modifies the date when the Housing and Community Development Division may begin providing residential housing assistance to state residents financially harmed as a result of the COVID-19 pandemic using \$20 million appropriated by the Legislature to the division from the Coronavirus Relief Fund. The bill removes a provision allowing the division to begin providing assistance August 1, 2020.

The bill also modifies provisions of the COVID-19 Commercial Rental Assistance Program, created by [Third Special Session S.B. 3006, COVID-19 Financial Relief Funding](#), and administered by the Governor's Office of Economic Development. The bill modifies the definition of "business entity," the requirements to receive assistance under the program, and the amounts of rental assistance that may be provided.

### **[1st Substitute S.B. 5006, Public Safety Worker Protection Amendments](#)**

This bill provides criminal penalties for intentionally coughing on a first responder or correctional facility employee and modifies definitions and procedures to authorize a court to order an individual to submit to medical testing for COVID-19 under certain circumstances.

### **[S.B. 5007, Unemployment Insurance Rates Amendments](#)**

This bill modifies provisions related to the Unemployment Compensation Fund, which the state uses to pay unemployment insurance benefits to unemployed workers. Payroll taxes paid by employers fund the Unemployment Compensation Fund. The bill caps the employer contribution rates to the fund for the 2021 calendar year. The bill caps the social contribution rate, paid by all employers, at 0.002 for calendar year 2021. It also caps the reserve factor, used to calculate the basic contribution rate, paid by certain employers, at 1.005 for calendar year 2021.

### **[S.B. 5008, Private Investigator License Qualifications](#)**

This bill removes the state residency requirement related to obtaining or renewing a license under the Private Investigator Regulation Act.

### **[S.B. 5009, Martha Hughes Cannon Statue Amendments](#)**

[2018 General Session S.C.R. 1](#) initiated the replacement of Utah's statue of Philo Farnsworth in the United States Capitol with a statue of Dr. Martha Hughes Cannon, and established an unveiling date of August 2020 for the new statue. [2018 General Session H.B. 444](#) created the Martha Hughes Cannon Statue Oversight Committee responsible for overseeing the creation and replacement process for the statue and established a repeal date of January 1, 2021, for the committee. Due to uncertainty about timing created by the COVID-19 pandemic, this bill removes the unveiling date requirement for the Martha Hughes Cannon statue and extends the repeal date for the statue's oversight committee to January 1, 2022. The bill also removes the requirement that the statue be placed in the National Statuary Hall.

### **[S.B. 5011, High Risk Population Protection Amendments](#)**

This bill:

- Requires the Utah Department of Health to establish protocols to collect information regarding the age and relevant comorbidities of an individual who tests positive for COVID-19.
- Requires the Utah Department of Health to publish deidentified information regarding comorbidities and other risk factors for COVID-19 in a manner that is accessible to the public and authorizes the department and local health departments to release

specific medical or epidemiological information to a state agency to assist the Utah Department of Health with that task under certain conditions.

- Requires the Utah Department of Health to establish protocols for identifying individuals present at certain care facilities who are at high risk for contracting COVID-19 and must submit to testing for COVID-19 at the request of the department or a local health department.
- Specifies the conditions under which an individual who refuses to be tested for COVID-19 may be discharged from a care facility.

### 1st Substitute S.B. 5012, Statutory Adjustments Related to Budget Changes

This bill makes several statutory changes related to certain FY 2020 and FY 2021 budget adjustments made by Fifth Special Session S.B. 5001, Budget Balancing and Coronavirus Relief Appropriations Adjustments. Because of the number of statutory changes, a summary of each has been included in **Appendix A** of this document.

### S.C.R. 501, Concurrent Resolution Honoring the Graduating Class of 2020

This resolution recognizes and congratulates the students who graduated from high school, colleges, and universities in 2020 during unusual circumstances due to the spread of the novel coronavirus disease 2019 (COVID-19). In addition, the resolution acknowledges the schools, families, and friends who made thoughtful and resourceful efforts to mark the students' achievements through creative graduation ceremonies and other activities.

### 1st Substitute S.C.R. 502, Concurrent Resolution on Refunding Excess Funds to the State from the State Insurance Risk Pools

Due to the emergency resulting from COVID-19, this concurrent resolution directs that \$11,720,000 in excess reserves be refunded by the Public Employees' Benefit and Insurance Program as follows:

- \$8,090,000 from the state health insurance risk pool, with at least \$7,370,000 going to the state and approximately \$720,000 going to state employees; and
- \$3,630,000 from the long-term disability risk pool, with the full amount going to the state.

## Appendix A

[S.B. 5012, Statutory Adjustments Related to Budget Changes](#), does the following:

- **Waste Tire Recycling Fund:** If there is a deficit in the Department of Environmental Quality's budget, allows the Legislature to appropriate money from the Waste Tire Recycling Fund for the department's operational costs.
- **Voter Information Pamphlets:** Eliminates the requirement that the Lieutenant Governor print and distribute Voter Information Pamphlets and requires instead that the pamphlets are published online.
- **Utah Premium Partnership for Health Insurance Program:** Eliminates the requirement for FY 2021 that the Department of Health seek federal approval to increase the maximum premium subsidy per month for adults under the state's Utah Premium Partnership for Health Insurance Program, and removes the authority of the department to increase premium subsidies to keep pace with the increase in insurance premium costs.
- **Hospital Provider Assessment Expendable Revenue Fund:** In fiscal year 2020, requires any excess balance in the Hospital Provider Assessment Expendable Revenue Fund stemming from General Fund appropriations to be deposited back into the General Fund.
- **Ambulance Service Provider Assessment Expendable Revenue Fund:** In fiscal year 2020, requires any excess balance in the Ambulance Service Provider Assessment Expendable Revenue Fund stemming from General Fund appropriations to be deposited back into the General Fund.
- **Liquor Control Fund:** Modifies the sources of money the Department of Alcoholic Beverage Control must deposit into the Liquor Control Fund to include:
  - .125% of total gross revenue from the sale of liquor; and
  - .27% of the total gross revenue from the sale of liquor, as determined by total gross revenue collected for the two fiscal years preceding the fiscal year for which the deposit is made.
- **Alcoholic Beverage Control Act Enforcement Fund:** Reduces the percentage of revenue from liquor sales, from 1% to .875%, that is deposited into the Alcoholic Beverage Control Act Enforcement Fund, which the Department of Public Safety uses to supplement appropriations to maintain a sufficient number of alcohol-related enforcement officers.
- **Underage Drinking Prevention Media and Education Campaign Restricted Account:** Reduces the percentage of revenue from liquor sales, from .6% to .468%, that is deposited into the Underage Drinking Prevention Media and Education Campaign Restricted Account, which the Department of Public Safety uses to direct and fund media and education campaigns designed to reduce underage drinking.
- **Uninsured Motorist Identification Restricted Account:** Increases the maximum amount the Legislature may appropriate, from \$1 million to \$1.5 million, from the Uninsured Motorist Identification Restricted Account to the Peace Officer Standards and Training Division for law enforcement training.
- **Tobacco Settlement Restricted Account:**
  - Increases the amount from the Tobacco Settlement Restricted Account, from \$10,452,900 to \$11,022,900, appropriated to the Department of Health for children in the Medicaid program and restoration of dental benefits in the Children's Health Insurance Program.
  - Decreases the amount from the Tobacco Settlement Restricted Account, from \$3,847,100 to \$3,277,100, appropriated to the Department of Health for alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs.
- **State Disaster Recovery Restricted Account:** Allows the Division of Emergency Management to expend up to \$500,000 in any fiscal year from the State Disaster Recovery Restricted Account to fund the governor's emergency appropriations.
- **Transportation Investment Fund:** Requires the Division of Finance to annually transfer \$1,813,400 from the Transportation Investment Fund of 2005 to the General Fund. If the deposited revenue in the Transportation Investment Fund of 2005 is less than that amount, the division must transfer the total amount available to the General Fund.
- **County of the First Class Highway Projects Fund:** Extends the date, from July 30 to November 30, before which the Department of Transportation is required to transfer certain funds

relating to the County of the First Class Highway Project Fund.

- **Electronic Cigarette Substance and Nicotine Product Tax Restricted Account:** Requires the Division of Finance to distribute \$2,000,000 from the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account to the Department of Health for alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs.
- **Division of Child and Family Services:** Requires law enforcement to provide a final investigatory report regarding child abuse or neglect to the Division of Child and Family Services upon request and modifies provisions relating to the division's coordination with a law enforcement investigation of child abuse or neglect.
- **Preremoval Child Abuse Investigations:** Modifies the circumstances under which the Division of Child and Family Services conducts a preremoval investigation of alleged child abuse or neglect. If the person responsible for the child's care is not the alleged perpetrator and can ensure the alleged perpetrator does not have access to the child, the division is not required to investigate.
- **County Jails:** Reduces the percentage of the county daily incarceration rate, from 56.88% to 47.89%, that the Division of Finance is required to pay a county that houses a state probationary or parole inmate.
- **Postpartum Recovery Leave Program:** 2020 General Session S.B. 207 enacted the postpartum recovery leave program that required certain state employers to provide up to 120 hours of paid postpartum recovery from childbirth. This bill delays the effective date of the program from July 1, 2020 to July 1, 2021.
- **Division of Child and Family Services:** Modifies the circumstances under which a court may vest legal custody of a minor to the Division of Child and Family Services to address the minor's ungovernable or other behavior, mental health, or disability. For the court to vest legal custody with the division, the division must engage other relevant divisions in the assessment of the minor's and the minor's family's need, determine that the division is the least restrictive intervention, and consent to custody being vested with the division.
- **Benchmark Assessments in Reading:** Requires the State Board of Education (state board) to prioritize contracting for a benchmark assessment in reading for students in grades 1 through 3 if appropriations are insufficient to provide a benchmark assessment in reading through grade 6.
- **Mathematics Benchmark Assessment:** Replaces a requirement that the state board approve a benchmark assessment for mathematics with permission to approve a benchmark assessment and makes a requirement that local education agencies administer the assessment contingent on the state board approving it.
- **Weighted Public Unit (WPU) Value Amount:** Amends the weighted pupil unit value amount and tax rate to reflect a 1.8% increase in the value of the WPU for fiscal year 2021 over the value of the WPU for fiscal year 2020.
- **Foreign Exchange Student WPUs:** Provides that LEAs may not receive funding for WPUs for foreign exchange students for the 2020-21 academic year
- **Small School District Base Funding:** Provides that the state board shall distribute funding to a school district that has at least one necessarily existent small school, based on the number of students enrolled in the school district.
- **Small Charter School Base Funding:** Provides that the state board shall distribute funding to a small charter school, based on the number of students enrolled in the charter school.
- **Local Levy Guarantee Increments:** Repeals a provision related to state appropriations for local levy guarantees.

[H.B. 5012, Public Education Budget Amendments,](#) makes the following amendments: