



# Analysis of Special Session Legislation

Third Special Session of the 65<sup>th</sup> Legislature | June 18, 2024

## Overview

The Office of Legislative Research and General Counsel (OLRGC) has compiled an analysis of legislation that will be introduced during the Third Special Session of the 65th Utah Legislature. The analysis is intended to be general in nature, describe the legislation at the time it is introduced, and does not address subsequently adopted amendments. To read the legislation in its entirety or review amendments, 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.

This document contains an analysis of the Third Special Session legislation that has been numbered. Clicking (Ctrl+link) on the title in the list below will take you directly to that legislation's analysis within the document.

[H.B. 3001, Exchange Student Guardianship Amendments](#)

[H.B. 3002, Public Lands Funding Amendments](#)

[H.B. 3003, School District Amendments](#)

[H.B. 3004, Energy Security Adjustments](#)

[H.B. 3005, Sunset and Repeal Date Code Corrections](#)

[H.J.R. 301, Joint Resolution – Legislative Findings on State Sovereignty in Regard to Title IX](#)

[H.C.R. 301, Concurrent Resolution – Directives to Government Officers Under the Utah Constitutional Sovereignty Act in Regard to Title IX](#)

## Analysis

[H.B. 3001, Exchange Student Guardianship Amendments](#)

**Sponsors:** Rep. Candice Pierucci and Sen. Kirk Cullimore

**Drafter:** Jeff Van Hulten | **Policy Analyst:** Micah Wixom | **Fiscal Analyst:** Ben Leishman

The Statewide Online Education Program (SOEP) provides online academic courses to participating public education students. Course providers include local education agencies (LEAs), institutions of higher education, and other providers approved by the State Board of Education.

Currently, the custodial parent of a student enrolled in a private or home school and taking an SOEP course must be a resident of Utah. Third Special Session H.B. 3001, Exchange Student Guardianship Amendments, would expand participation in the SOEP by allowing foreign exchange students enrolled in a private school, whose custodial parent lives outside of Utah, to participate in the SOEP. This change would consequently authorize course providers to seek reimbursement for foreign exchange students participating in online courses through the SOEP.

[H.B. 3002, Public Lands Funding Amendments](#)

**Sponsors:** Rep. Walt Brooks and Sen. Jerry Stevenson



**Drafter:** Gus Harb | **Policy Analyst:** Nathan Brady | **Fiscal Analyst:** Steven Allred

Third Special Session H.B. 3002, Public Lands Funding Amendments, would amend provisions of the Public Lands Litigation Restricted Account (restricted account).

This restricted account consists of money appropriated by the Legislature and money received by the Federalism Commission from other state agencies. The money in the account is to be used, as appropriated by the Legislature, to assert, defend, or litigate state and local government rights to the disposition and use of federal lands within the state. The restricted account was emptied in 2022 and currently has a fund balance of zero. (Link to COBI summary, [here.](#))

H.B. 3002 would modify the provisions regarding the Public Lands Litigation Restricted Account by:

- Renaming the restricted account to be the Federal Overreach Restricted Account.
- Consolidating federalism-related funds from four separate accounts into the restricted account.
- Authorizing the funds in the restricted account to be used for educating the public in matters relating to federalism or state sovereignty, in addition to the existing authorized uses.
- Requiring an entity that receives funds from the restricted account to report to the Executive Appropriations Committee, as specified.

### ***Fiscal Impact***

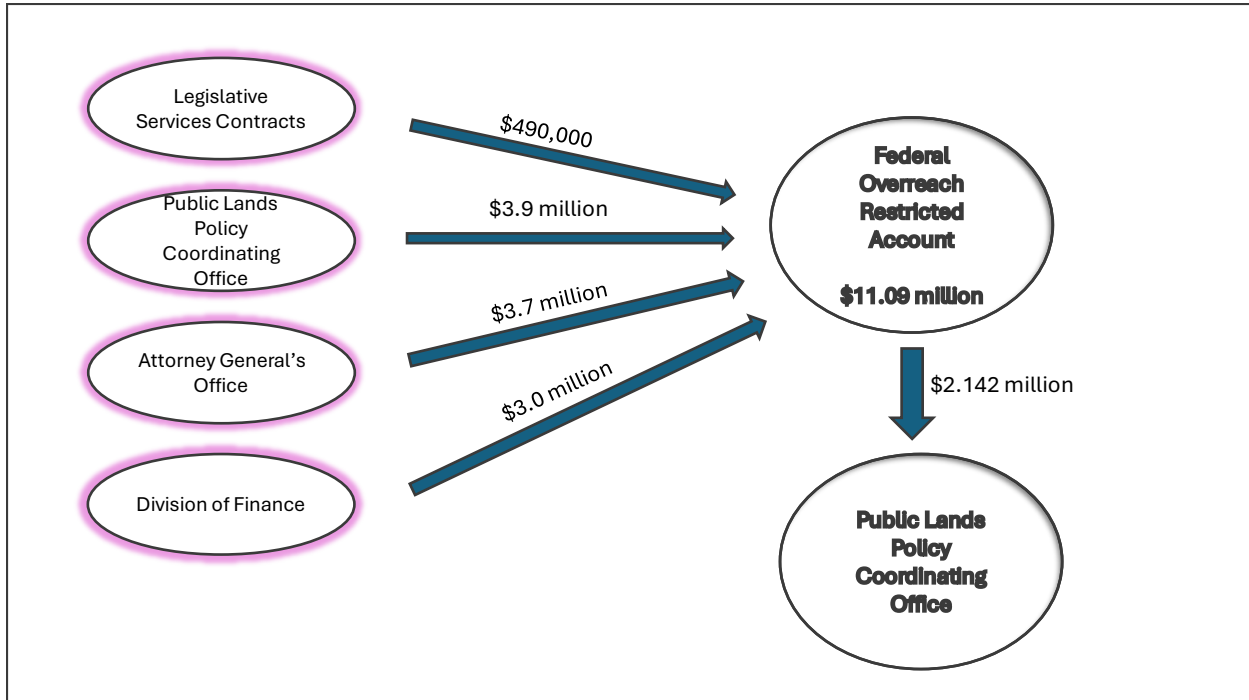
This bill would consolidate \$11,090,000 into the Federal Overreach Restricted Account (restricted account) from the following four accounts (see **Figure 1** on page 3):

- \$490,000 from Legislative Services that was appropriated for contracts with the Federalism Commission.
- \$3.9 million from the Public Lands Policy Coordination Office (PLPCO) of the remaining funds that were appropriated to PLPCO to protect Utah natural resources and public lands and strategic planning.
- \$3.7 million from the Attorney General’s Office of the remaining funds that were authorized for the litigation support related to national monuments.
- \$3.0 million from the Division of Finance that was appropriated for the state management of public lands within the state.

From the \$11.09 million transferred into the restricted account, the bill would appropriate \$2.142 million to the Public Lands Policy Coordinating Office.



**Figure 1: H.B. 3002 - Fund Consolidation by Account and Amount**



Source: Office of the Legislative Fiscal Analyst

### **H.B. 3003, School District Amendments**

**Sponsors:** Rep. Brady Brammer and Sen. Keith Grover

**Drafter:** Rhonda Bailey | **Policy Analyst:** Micah Wixom | **Fiscal Analyst:** Rachelle Gunderson

2024 General Session [S.B. 221, School District Amendments](#), changed the process for creating a new school district. When voters approve the creation of a new district, the existing district would dissolve (“divided school district”), creating two (or more) new districts.

- “New school district” means an entirely new district created out of the divided school district, as approved by voters.
- “Reorganized new school district” means the new district created from the remaining portion of the divided school district.

#### ***Elections on Proposals to Create a New School District***

Third Special Session H.B. 3003, School District Amendments, would provide that after a local legislative body preliminarily approves the creation of a new school district, an election must be held to decide whether a new school district should be created. This election must take place at the next regular general election that is at least 65 days away. Except as it relates to a citizen petition, only individuals who reside in the potential new school district boundaries may take part in the election to determine whether a new school district should be created.



### ***New School Board Members***

If those voters approve of the creation of a new school district, elections for school district board members in the new school district and in the reorganized new school district would then be held during the next municipal election in each school district.

The bill also directs the election officer to adjust the initial terms of the board members for the new and reorganized new school districts. The initial terms for approximately half of the board members will be three years and the remaining members' terms will be five years.

### ***Requests to Create a New School District***

H.B. 3003 would remove the option for a local school board to initiate the process to create a new school district. The remaining options in statute for initiating the process are: (1) a citizens' petition, (2) request of a municipality within the boundaries of the school district to be divided, or (3) request of multiple local governments through an interlocal agreement.

If multiple municipalities submit a request to form a new school district through an interlocal agreement on or after April 30, 2024, this bill would prohibit municipalities from withdrawing from the request unless a majority of participating municipalities agree by vote. If a majority of the municipalities participating in an interlocal agreement vote to withdraw from the request, the request to form a new school district is voided. Those municipalities may not participate in a new or revised request until the following calendar year.

Existing law requires municipalities – including participants of an interlocal agreement – to conduct a feasibility study and hold public comment on the study. This bill would shorten the public comment period from 45 to 30 days.

If passed, H.B. 3003 would retroactively become effective May 2, 2024.

## **H.B. 3004, Energy Security Adjustments**

**Sponsors:** Rep. Carl Albrecht and Sen. Derrin Owens

**Drafter:** Scott Elder | **Policy Analyst:** Sam Brucker | **Fiscal Analyst:** Timothy Bereece

### ***2024 General Session S.B. 161 Recap***

Third Special Session H.B. 3004, Energy Security Adjustments, would modify provisions established by 2024 General Session [S.B. 161, Energy Security Amendments](#). The key provisions of S.B. 161 include:

- Creation of the Decommissioned Asset Disposition Authority (Authority), which is authorized to submit a comprehensive air permit application to the Utah Division of Air Quality (DAQ) on behalf of a project entity. The application may reflect a scenario whereby at least one generating unit remains operational.
- Establishment of a process and timeline for the Authority to submit the application, and for DAQ to evaluate the application.
- Directive for the Authority, in collaboration with the Utah Office of Energy Development (OED), to conduct a study evaluating the challenges of DAQ issuing a new air permit and its effects on the state implementation plan – a set of regulations and documents a state uses to comply with the National Ambient Air Quality Standards.



### ***Key Provisions of Energy Security Adjustments***

Due to the potential difficulty with stakeholders meeting some of the specified dates in the timeline established in S.B. 161, H.B. 3004 would remove certain dates and allow for greater flexibility with others, as displayed in **Figure 2: H.B. 3004 - Modifications to the Process and Timeline for the Authority to Submit an Air Permit Application** (page 6). Additionally, H.B. 3004 would do the following:

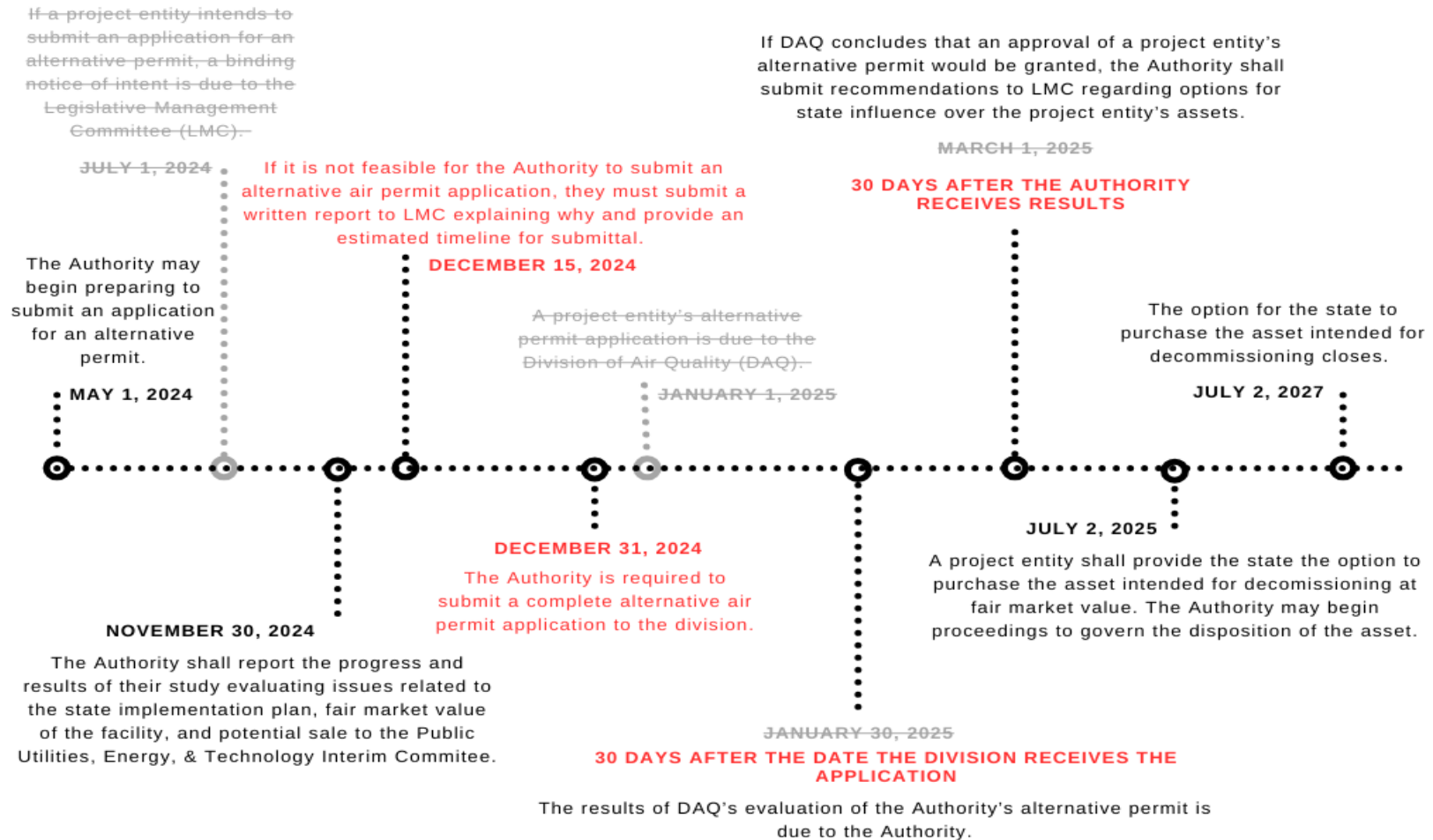
- Modify the definition of a project entity's assets to include water.
- Clarify that the study conducted by the Authority and OED ensures the state's implementation plan is not in conflict with federal air quality standards.
- Repeal the Project Entity Oversight Committee.



## Figure 2: H.B. 3004 - Modifications to the Process and Timeline for the Authority to Submit an Air Permit Application

Dates that are struck and in gray are removed from statute as adopted in S.B. 161.

Dates and provisions in red indicate proposed changes in H.B. 3004, Energy Security Adjustments.





## **H.B. 3005, Sunset and Repeal Date Code Corrections**

**Sponsors:** Rep. Jefferson Moss and Sen. Ann Millner

**Drafter:** Mike Curtis | **Policy Analyst:** Adam Sweet | **Fiscal Analyst:** Steven Allred

During the 2024 General Session, the Legislature passed [S.B. 276, Sunset and Repeal Date Code Corrections](#), which made technical changes to create a standardized format for drafting sunset and repeal date provisions. The Office of Legislative Research and General Counsel requested these changes to improve drafting software programming and the processing of the Utah Code. The new format affects existing sunset and repeal provisions in the Utah Code, as well as future sunset and repeal provisions.

Currently, in statute, some sunset and repeal date provisions also include how a provision should be modified to read after a certain date. S.B. 276 began removing these future modified provisions from the sunset and repeal dates code sections and placed the future modified language within the relevant code section.

Third Special Session H.B. 3005 is a continuation of S.B. 276. This bill would complete the standardization of all sunset and repeal date sections and move provisions with future modified language from the sunset and repeal date sections to their relevant section of code.

## **H.J.R. 301, Joint Resolution – Legislative Findings on State Sovereignty in Regard to Title IX**

**Sponsors:** Rep. Neil Walter and Sen. Scott Sandall

**Drafter:** Rhonda Bailey | **Policy Analyst:** Finn Rose | **Fiscal Analyst:** Joseph Fitzgerald

## **H.C.R. 301, Concurrent Resolution – Directives to Government Officers Under the Utah Constitutional Sovereignty Act in Regard to Title IX**

**Sponsors:** Rep. Kera Birkeland and Sen. Daniel McCay

**Drafter:** Rhonda Bailey | **Policy Analyst:** Micah Wixom | **Fiscal Analyst:** Kimberly Madsen

### ***2024 General Session S.B. 57 Recap***

During the 2024 General Session, the Legislature passed [S.B. 57, Utah Constitutional Sovereignty Act](#), which created a framework for the Legislature, through a concurrent resolution, to prohibit government officers from enforcing or assisting in the enforcement of a federal directive if the Legislature determines that the federal directive violates the principles of state sovereignty.

S.B. 57 clarified that a federal directive violates the principles of state sovereignty if the federal directive restricts or infringes upon:

- a power or right reserved to the state under the 10th Amendment to the U.S. Constitution; or
- the state’s rights and/or interests to provide for the health, safety, and welfare, and to promote the prosperity, of the state’s residents.



S.B. 57 also required that a concurrent resolution includes:

- the federal directive determined to violate the principles of state sovereignty;
- the information or findings upon which the Legislature has made its determination;
- the government officers to which the concurrent resolution is directed;
- the effect that the concurrent resolution has on the federal directive (the prohibited activities/forms of assistance applicable to government officers); and
- any other requirements for government officers to comply with the concurrent resolution.

### ***H.J.R. 301***

Third Special Session H.J.R. 301, Joint Resolution - Legislative Findings on State Sovereignty in Regard to Title IX, declares through legislative findings that the federal directive given under the new rule of Title IX of the Education Amendments of 1972 constitutes an overreach of federal authority that violates Utah's rights and interests to provide for the health, safety, and welfare, and to promote the prosperity of Utah residents.

Third Special Session H.J.R. 301 finds that the federal directive implementing the new Title IX rule triggers the process established in S.B. 57, Utah Constitutional Sovereignty Act. The findings also address conflicts within Utah Code, including:

- 2022 General Session [H.B. 11, Student Eligibility in Interscholastic Activities](#), which prohibits a student of the male sex from competing in athletic activities designated for female students, among other provisions.
- 2024 General Session [H.B. 257, Sex-based Designations for Privacy, Anti-bullying, and Women's Opportunities](#), which establishes parameters for usage of sex-designated privacy spaces in public schools, among other provisions.
- Utah laws regarding students' rights on college and university campuses which protect students from harassment and preserve students' rights to free expression and due process, found in Utah Code [Title 53B, Chapter 27, Campus Individual Rights Act](#).
- Utah laws regarding abortion, which generally forbid the use of public funds for abortion services, found in Utah Code [Title 76, Chapter 7, Part 3, Abortions](#).

### ***H.C.R. 301***

When there is a conflict between new Title IX regulations and Utah laws, Third Special Session H.C.R. 301, Concurrent Resolution – Directives to Government Officers Under the Utah Constitutional Sovereignty Act in Regard to Title IX, directs government officers to comply with Utah laws over Title IX regulations. Specifically:

- 2022 General Session H.B. 11, Student Eligibility in Interscholastic Activities.
- 2024 General Session H.B. 257, Sex-Based Designations for Privacy, Anti-bullying, and Women's Opportunities.
- Utah laws regarding students' rights on college and university campuses which protect students from harassment and preserve students' rights to free expression and due process.





- All laws regulating abortion.

“Government officers” includes the following:

- Elected state officials.
- Elected and appointed members of education boards and boards of higher education, and members appointed to fill a vacancy. This includes:
  - The State Board of Education.
  - Local school boards.
  - The State Charter School Board.
  - Charter school governing boards.
  - The Board of Higher Education.
  - Individual institution boards of trustees.
- Individuals appointed to, volunteering for, or employed in a full-time, part-time, or temporary position in the following:
  - State government.
  - The public education system or the system of higher education.
  - A board of education or a board of higher education.