

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **20A-7-101**, as last amended by Laws of Utah 2012, Chapters 17 and 72

31 **20A-7-606**, as last amended by Laws of Utah 2012, Chapter 72

32 **20A-7-607**, as last amended by Laws of Utah 2011, Chapter 17

33 **20A-7-609**, as last amended by Laws of Utah 2011, Chapter 17

34 **59-12-1102**, as last amended by Laws of Utah 2012, Chapters 212 and 254

35 ENACTS:

36 **20A-7-609.5**, Utah Code Annotated 1953



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

39 Section 1. Section **20A-7-101** is amended to read:

40 **20A-7-101. Definitions.**

41 As used in this chapter:

42 (1) "Budget officer" means:

43 (a) (i) for a county of the first class, the person designated as budget officer in Section
44 **17-19a-203**; or

45 (ii) for a county not described in Subsection (1)(a)(i), a person designated as budget
46 officer in Section **17-19-19**;

47 (b) for a city, the person designated as budget officer in Subsection **10-6-106(5)**; or

48 (c) for a town, the town council.

49 (2) "Certified" means that the county clerk has acknowledged a signature as being the
50 signature of a registered voter.

51 (3) "Circulation" means the process of submitting an initiative or referendum petition
52 to legal voters for their signature.

53 (4) "Final fiscal impact statement" means a financial statement prepared after voters
54 approve an initiative that contains the information required by Subsection **20A-7-202.5(2)** or
55 **20A-7-502.5(2)**.

56 (5) "Initial fiscal impact estimate" means a financial statement prepared according to
57 the terms of Section **20A-7-202.5** or **20A-7-502.5** after the filing of an application for an
58 initiative petition.

59 (6) "Initiative" means a new law proposed for adoption by the public as provided in
60 this chapter.

61 (7) "Initiative packet" means a copy of the initiative petition, a copy of the proposed
62 law, and the signature sheets, all of which have been bound together as a unit.

63 (8) "Legal signatures" means the number of signatures of legal voters that:

64 (a) meet the numerical requirements of this chapter; and

65 (b) have been certified and verified as provided in this chapter.

66 (9) "Legal voter" means a person who:

67 (a) is registered to vote; or

68 (b) becomes registered to vote before the county clerk certifies the signatures on an
69 initiative or referendum petition.

70 (10) "Local attorney" means the county attorney, city attorney, or town attorney in
71 whose jurisdiction a local initiative or referendum petition is circulated.

72 (11) "Local clerk" means the county clerk, city recorder, or town clerk in whose
73 jurisdiction a local initiative or referendum petition is circulated.

74 (12) (a) "Local law" includes an ordinance, resolution, master plan, and any
75 comprehensive zoning regulation adopted by ordinance or resolution.

76 (b) "Local law" does not include an individual property zoning decision.

77 (13) "Local legislative body" means the legislative body of a county, city, or town.

78 (14) "Local obligation law" means a local law passed by the local legislative body
79 regarding a bond that was approved by a majority of qualified voters in an election.

80 (15) "Local tax law" means a local law ~~that~~ **passed by a political subdivision with an**
80a **annual or biannual calendar fiscal year, ←** ~~that~~ **increases a tax or imposes a new tax.**

81 ~~(15)~~ (16) "Measure" means a proposed constitutional amendment, an initiative, or
82 referendum.

83 ~~(16)~~ (17) "Referendum" means a process by which a law passed by the Legislature or
84 by a local legislative body is submitted or referred to the voters for their approval or rejection.

85 ~~(17)~~ (18) "Referendum packet" means a copy of the referendum petition, a copy of
86 the law being submitted or referred to the voters for their approval or rejection, and the
87 signature sheets, all of which have been bound together as a unit.

88 ~~(18)~~ (19) (a) "Signature" means a holographic signature.

89 (b) "Signature" does not mean an electronic signature.

90 ~~[(19)]~~ (20) "Signature sheets" means sheets in the form required by this chapter that are
 91 used to collect signatures in support of an initiative or referendum.

92 ~~[(20)]~~ (21) "Sponsors" means the legal voters who support the initiative or referendum
 93 and who sign the application for petition copies.

94 ~~[(21)]~~ (22) "Sufficient" means that the signatures submitted in support of an initiative
 95 or referendum petition have been certified and verified as required by this chapter.

96 ~~[(22)]~~ (23) "Verified" means acknowledged by the person circulating the petition as
 97 required in Sections 20A-7-205 and 20A-7-305.

98 Section 2. Section 20A-7-606 is amended to read:

99 **20A-7-606. Submitting the referendum petition -- Certification of signatures by**
 100 **the county clerks -- Transfer to local clerk.**

101 (1) (a) The sponsors shall deliver each signed and verified referendum packet to the
 102 county clerk of the county in which the packet was circulated[:] no later than 45 days after the
 103 day on which the local law is passed.

104 ~~[(i) for county referenda, no later than 45 days after the passage of the local law;]~~

105 ~~[(ii) for municipal referenda, no later than 45 days after the passage of the local law;~~

106 ~~or]~~

107 ~~[(iii) for referenda held in relation to the adoption of an ordinance imposing a county~~
 108 ~~option sales and use tax under Section 59-12-1102, no later than 100 days before the election~~
 109 ~~that the referendum qualifies for under Subsection 20A-7-609(2)(c).]~~

110 (b) A sponsor may not submit a referendum packet after the deadline established in this
 111 Subsection (1).

112 (2) (a) No later than ~~[60 days after the local law passes]~~ 15 days after the day on which
 113 a county clerk receives a referendum packet under Subsection (1)(a), the county clerk shall:

114 (i) check the names of all persons completing the verification on the last page of each
 115 referendum packet to determine whether those persons are Utah residents and are at least 18
 116 years old; and

117 (ii) submit the name of each of those persons who is not a Utah resident or who is not
 118 at least 18 years old to the attorney general and county attorney.

119 (b) The county clerk may not certify a signature under Subsection (3) on a referendum
 120 packet that is not verified in accordance with Section 20A-7-605.

121 (3) No later than ~~[75]~~ 30 days after the ~~[local law passes]~~ day on which a county clerk
122 receives a referendum packet under Subsection (1)(a), the county clerk shall:

123 (a) determine whether each signer is a registered voter according to the requirements of
124 Section [20A-7-606.3](#);

125 (b) certify on the referendum petition whether each name is that of a registered voter;
126 and

127 (c) deliver all of the verified referendum packets to the local clerk.

128 Section 3. Section [20A-7-607](#) is amended to read:

129 **[20A-7-607. Evaluation by the local clerk.](#)**

130 (1) When each referendum packet is received from a county clerk, the local clerk shall
131 check off from the local clerk's record the number of each referendum packet filed.

132 (2) ~~[(a) After all of the referendum packets have been received by]~~ Within 15 days after
133 the day on which the local clerk receives each referendum packet from a county clerk, the local
134 clerk shall:

135 (a) count the number of the names certified by the county clerks that appear on each
136 verified signature sheet~~[-]~~;

137 (b) ~~[H]~~ if the total number of certified names from each verified signature sheet equals
138 or exceeds the number of names required by Section [20A-7-601](#) and the requirements of this
139 part are met, ~~[the local clerk shall]~~ mark upon the front of the petition the word "sufficient~~[-]~~";

140 (c) ~~[H]~~ if the total number of certified names from each verified signature sheet does
141 not equal or exceed the number of names required by Section [20A-7-601](#) or a requirement of
142 this part is not met, ~~[the local clerk shall]~~ mark upon the front of the petition the word
143 "insufficient~~[-]~~"; and

144 (d) ~~[The local clerk shall immediately]~~ notify any one of the sponsors of the local
145 clerk's finding.

146 (3) If the local clerk finds the total number of certified signatures from each verified
147 signature sheet to be insufficient, any sponsor may file a written demand with the local clerk
148 for a recount of the signatures appearing on the referendum petition in the presence of any
149 sponsor.

150 (4) (a) If the local clerk refuses to accept and file any referendum petition, any voter
151 may apply to the Supreme Court for an extraordinary writ to compel the local clerk to do so

152 within 10 days after the refusal.

153 (b) If the Supreme Court determines that the referendum petition is legally sufficient,
154 the local clerk shall file it, with a verified copy of the judgment attached to it, as of the date on
155 which it was originally offered for filing in the local clerk's office.

156 (c) If the Supreme Court determines that any petition filed is not legally sufficient, the
157 Supreme Court may enjoin the local clerk and all other officers from:

158 (i) certifying or printing the ballot title and numbers of that measure on the official
159 ballot for the next election[-]; or

160 (ii) as it relates to a local tax law, certifying, printing, or mailing the ballot title and
161 numbers of that measure under Section [20A-7-609.5](#).

162 (5) A petition determined to be sufficient in accordance with this section is qualified
163 for the ballot.

164 Section 4. Section **20A-7-609** is amended to read:

165 **20A-7-609. Form of ballot -- Manner of voting.**

166 (1) The local clerk shall ensure that the number and ballot title are presented upon the
167 official ballot with, immediately adjacent to them, the words "For" and "Against," each word
168 presented with an adjacent square in which the elector may indicate the elector's vote.

169 (2) (a) Except as provided in Subsection (2)(c)(i) [~~or (d)(i)~~] or Section [20A-7-609.5](#),
170 and unless the county legislative body calls a special election, the county clerk shall ensure that
171 county referenda that have qualified for the ballot appear on the next regular general election
172 ballot.

173 (b) Except as provided in Subsection (2)(~~d~~)(c)(ii) or Section [20A-7-609.5](#), and unless
174 the municipal legislative body calls a special election, the municipal recorder or clerk shall
175 ensure that municipal referenda that have qualified for the ballot appear on the next regular
176 municipal election ballot.

177 [~~(c) For referenda held in relation to the adoption of an ordinance imposing a county
178 option sales and use tax under Section [59-12-1102](#), the county clerk shall ensure that referenda
179 that have qualified for the ballot appear on the ballot at the earlier of:]~~

180 [~~(i) the next regular general election that is more than 155 days after the date of the
181 adoption of the ordinance; or]~~

182 [~~(ii) the next municipal general election that is more than 155 days after the date of the~~

183 ~~adoption of the ordinance.]~~

184 ~~[(†)]~~ (c) (i) [Hf] Except as provided in Section 20A-7-609.5, if a local law passes after
 185 January 30 of the year in which there is a regular general election, the county clerk shall ensure
 186 that a county referendum that has qualified for the ballot appears on the ballot at the second
 187 regular general election immediately following the passage of the local law unless the county
 188 legislative body calls a special election.

189 (ii) [Hf] Except as provided in Section 20A-7-609.5, if a local law passes after January
 190 30 of the year in which there is a municipal general election, the municipal recorder or clerk
 191 shall ensure that a municipal referendum that has qualified for the ballot appears on the ballot
 192 at the second municipal general election immediately following the passage of the local law
 193 unless the municipal legislative body calls a special election.

194 (3) (a) (i) A voter desiring to vote in favor of the law that is the subject of the
 195 referendum shall mark the square adjacent to the word "For."

196 (ii) The law that is the subject of the referendum is effective if a majority of voters
 197 mark "For."

198 (b) (i) A voter desiring to vote against the law that is the subject of the referendum
 199 petition shall mark the square following the word "Against."

200 (ii) The law that is the subject of the referendum is not effective if a majority of voters
 201 mark "Against."

202 Section 5. Section **20A-7-609.5** is enacted to read:

203 **20A-7-609.5. Election on referendum challenging local tax law conducted entirely**
 204 **by absentee ballot.**

205 (1) An election officer ~~shall~~ **may** administer an election on a referendum
 205a challenging a local
 206 tax law entirely by absentee ballot.

207 (2) For purposes of an election conducted under this section, the election officer shall
 208 designate as the election day the day that is 30 days after the day on which the election officer
 209 complies with Subsection (3).

210 (3) Within 30 days after the day on which the referendum described in Subsection (1)
 211 qualifies for the ballot, the election officer shall mail to each registered voter within the voting
 212 precincts to which the local tax law applies:

213 (a) an absentee ballot;

214 (b) a statement that there will be no polling place in the voting precinct for the election;

215 (c) a statement specifying the election day described in Subsection (2);

216 (d) a business reply mail envelope;

217 (e) instructions for returning the ballot that include an express notice about any

218 relevant deadlines that the voter must meet in order for the voter's vote to be counted; and

219 (f) a warning, on a separate page of colored paper in boldface print, indicating that if

220 the voter fails to follow the instructions included with the absentee ballot, the voter will be

221 unable to vote in that election because there will be no polling place in the voting precinct on

222 the day of the election.

223 (4) A voter who votes by absentee ballot under this section is not required to apply for

224 an absentee ballot as required by this part.

225 (5) An election officer who administers an election under this section shall:

226 (a) (i) obtain, in person, the signatures of each voter within that voting precinct before
227 the election; or

228 (ii) obtain the signature of each voter within the voting precinct from the county clerk;

229 and

230 (b) maintain the signatures on file in the election officer's office.

231 (6) (a) Upon receiving the returned absentee ballots, the election officer shall compare

232 the signature on each absentee ballot with the voter's signature that is maintained on file and

233 verify that the signatures are the same.

234 (b) If the election officer questions the authenticity of the signature on the absentee

235 ballot, the election officer shall immediately contact the voter to verify the signature.

236 (c) If the election officer determines that the signature on the absentee ballot does not

237 match the voter's signature that is maintained on file, the election officer shall:

238 (i) unless the absentee ballot application deadline described in Section [20A-3-304](#) has
239 passed, immediately send another absentee ballot and other voting materials as required by this

240 section to the voter; and

241 (ii) disqualify the initial absentee ballot.

242 Section 6. Section **59-12-1102** is amended to read:

243 **59-12-1102. Base -- Rate -- Imposition of tax -- Distribution of revenue --**

244 **Administration -- Administrative charge -- Commission requirement to retain an amount**

245 **to be deposited into the Qualified Emergency Food Agencies Fund -- Enactment or repeal**
246 **of tax -- Effective date -- Notice requirements.**

247 (1) (a) (i) Subject to Subsections (2) through (6), and in addition to any other tax
248 authorized by this chapter, a county may impose by ordinance a county option sales and use tax
249 of .25% upon the transactions described in Subsection 59-12-103(1).

250 (ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this
251 section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are
252 exempt from taxation under Section 59-12-104.

253 (b) For purposes of this Subsection (1), the location of a transaction shall be
254 determined in accordance with Sections 59-12-211 through 59-12-215.

255 (c) The county option sales and use tax under this section shall be imposed:

256 (i) upon transactions that are located within the county, including transactions that are
257 located within municipalities in the county; and

258 (ii) except as provided in Subsection (1)(d) or (5), beginning on the first day of
259 January:

260 (A) of the next calendar year after adoption of the ordinance imposing the tax if the
261 ordinance is adopted on or before May 25; or

262 (B) of the second calendar year after adoption of the ordinance imposing the tax if the
263 ordinance is adopted after May 25.

264 (d) Notwithstanding Subsection (1)(c)(ii), the county option sales and use tax under
265 this section shall be imposed:

266 (i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before
267 September 4, 1997; or

268 (ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997
269 but after September 4, 1997.

270 (2) (a) Before imposing a county option sales and use tax under Subsection (1), a
271 county shall hold two public hearings on separate days in geographically diverse locations in
272 the county.

273 (b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting
274 time of no earlier than 6 p.m.

275 (ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven

276 days after the day the first advertisement required by Subsection (2)(c) is published.

277 (c) (i) Before holding the public hearings required by Subsection (2)(a), the county
278 shall advertise:

279 (A) its intent to adopt a county option sales and use tax;

280 (B) the date, time, and location of each public hearing; and

281 (C) a statement that the purpose of each public hearing is to obtain public comments
282 regarding the proposed tax.

283 (ii) The advertisement shall be published:

284 (A) in a newspaper of general circulation in the county once each week for the two
285 weeks preceding the earlier of the two public hearings; and

286 (B) on the Utah Public Notice Website created in Section [63F-1-701](#), for two weeks
287 preceding the earlier of the two public hearings.

288 (iii) The advertisement described in Subsection (2)(c)(ii)(A) shall be no less than 1/8
289 page in size, and the type used shall be no smaller than 18 point and surrounded by a 1/4-inch
290 border.

291 (iv) The advertisement described in Subsection (2)(c)(ii)(A) may not be placed in that
292 portion of the newspaper where legal notices and classified advertisements appear.

293 (v) In accordance with Subsection (2)(c)(ii)(A), whenever possible:

294 (A) the advertisement shall appear in a newspaper that is published at least five days a
295 week, unless the only newspaper in the county is published less than five days a week; and

296 (B) the newspaper selected shall be one of general interest and readership in the
297 community, and not one of limited subject matter.

298 (d) The adoption of an ordinance imposing a county option sales and use tax is subject
299 to a local referendum election and shall be conducted as provided in [~~Title 20A, Chapter 7, Part~~
300 ~~6, Local Referenda - Procedures~~] [Section 20A-7-609.5](#).

301 (3) (a) Subject to Subsection (5), if the aggregate population of the counties imposing a
302 county option sales and use tax under Subsection (1) is less than 75% of the state population,
303 the tax levied under Subsection (1) shall be distributed to the county in which the tax was
304 collected.

305 (b) Subject to Subsection (5), if the aggregate population of the counties imposing a
306 county option sales and use tax under Subsection (1) is greater than or equal to 75% of the state

307 population:

308 (i) 50% of the tax collected under Subsection (1) in each county shall be distributed to
309 the county in which the tax was collected; and

310 (ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection
311 (1) in each county shall be distributed proportionately among all counties imposing the tax,
312 based on the total population of each county.

313 (c) Except as provided in Subsection (5), the amount to be distributed annually to a
314 county under Subsection (3)(b)(ii), when combined with the amount distributed to the county
315 under Subsection (3)(b)(i), does not equal at least \$75,000, then:

316 (i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall
317 be increased so that, when combined with the amount distributed to the county under
318 Subsection (3)(b)(i), the amount distributed annually to the county is \$75,000; and

319 (ii) the amount to be distributed annually to all other counties under Subsection
320 (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under
321 Subsection (3)(c)(i).

322 (d) The commission shall establish rules to implement the distribution of the tax under
323 Subsections (3)(a), (b), and (c).

324 (4) (a) Except as provided in Subsection (4)(b) or (c), a tax authorized under this part
325 shall be administered, collected, and enforced in accordance with:

326 (i) the same procedures used to administer, collect, and enforce the tax under:

327 (A) Part 1, Tax Collection; or

328 (B) Part 2, Local Sales and Use Tax Act; and

329 (ii) Chapter 1, General Taxation Policies.

330 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to
331 Subsections 59-12-205(2) through (6).

332 (c) (i) Subject to Subsection (4)(c)(ii), the commission shall retain and deposit an
333 administrative charge in accordance with Section 59-1-306 from the revenues the commission
334 collects from a tax under this part.

335 (ii) Notwithstanding Section 59-1-306, the administrative charge described in
336 Subsection (4)(c)(i) shall be calculated by taking a percentage described in Section 59-1-306 of
337 the distribution amounts resulting after:

338 (A) the applicable distribution calculations under Subsection (3) have been made; and

339 (B) the commission retains the amount required by Subsection (5).

340 (5) (a) Beginning on July 1, 2009, the commission shall calculate and retain a portion
341 of the sales and use tax collected under this part as provided in this Subsection (5).

342 (b) For a county that imposes a tax under this part, the commission shall calculate a
343 percentage each month by dividing the sales and use tax collected under this part for that
344 month within the boundaries of that county by the total sales and use tax collected under this
345 part for that month within the boundaries of all of the counties that impose a tax under this part.

346 (c) For a county that imposes a tax under this part, the commission shall retain each
347 month an amount equal to the product of:

348 (i) the percentage the commission determines for the month under Subsection (5)(b)
349 for the county; and

350 (ii) \$6,354.

351 (d) The commission shall deposit an amount the commission retains in accordance
352 with this Subsection (5) into the Qualified Emergency Food Agencies Fund created by Section
353 [35A-8-1009](#).

354 (e) An amount the commission deposits into the Qualified Emergency Food Agencies
355 Fund shall be expended as provided in Section [35A-8-1009](#).

356 (6) (a) For purposes of this Subsection (6):

357 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County
358 Consolidations and Annexations.

359 (ii) "Annexing area" means an area that is annexed into a county.

360 (b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after July 1, 2004, a
361 county enacts or repeals a tax under this part:

362 (A) (I) the enactment shall take effect as provided in Subsection (1)(c); or

363 (II) the repeal shall take effect on the first day of a calendar quarter; and

364 (B) after a 90-day period beginning on the date the commission receives notice meeting
365 the requirements of Subsection (6)(b)(ii) from the county.

366 (ii) The notice described in Subsection (6)(b)(i)(B) shall state:

367 (A) that the county will enact or repeal a tax under this part;

368 (B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);

- 369 (C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and
370 (D) if the county enacts the tax described in Subsection (6)(b)(ii)(A), the rate of the
371 tax.
- 372 (c) (i) The enactment of a tax takes effect on the first day of the first billing period:
373 (A) that begins on or after the effective date of the enactment of the tax; and
374 (B) if the billing period for the transaction begins before the effective date of the
375 enactment of the tax under Subsection (1).
- 376 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
377 period is rendered on or after the effective date of the repeal of the tax imposed under
378 Subsection (1).
- 379 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
380 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
381 Subsection (6)(b)(i) takes effect:
382 (A) on the first day of a calendar quarter; and
383 (B) beginning 60 days after the effective date of the enactment or repeal under
384 Subsection (6)(b)(i).
- 385 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
386 commission may by rule define the term "catalogue sale."
- 387 (e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs
388 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
389 part for an annexing area, the enactment or repeal shall take effect:
390 (A) on the first day of a calendar quarter; and
391 (B) after a 90-day period beginning on the date the commission receives notice meeting
392 the requirements of Subsection (6)(e)(ii) from the county that annexes the annexing area.
- 393 (ii) The notice described in Subsection (6)(e)(i)(B) shall state:
394 (A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or
395 repeal of a tax under this part for the annexing area;
396 (B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);
397 (C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and
398 (D) the rate of the tax described in Subsection (6)(e)(ii)(A).
- 399 (f) (i) The enactment of a tax takes effect on the first day of the first billing period:

400 (A) that begins on or after the effective date of the enactment of the tax; and
401 (B) if the billing period for the transaction begins before the effective date of the
402 enactment of the tax under Subsection (1).
403 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
404 period is rendered on or after the effective date of the repeal of the tax imposed under
405 Subsection (1).
406 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
407 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
408 Subsection (6)(e)(i) takes effect:
409 (A) on the first day of a calendar quarter; and
410 (B) beginning 60 days after the effective date of the enactment or repeal under
411 Subsection (6)(e)(i).
412 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
413 commission may by rule define the term "catalogue sale."

Legislative Review Note
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Office of Legislative Research and General Counsel