

## SB0029S03 compared with SB0029S02

~~text~~ shows text that was in SB0029S02 but was deleted in SB0029S03.

text shows text that was not in SB0029S02 but was inserted into SB0029S03.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Daniel W. Thatcher proposes the following substitute bill:

### DRUG DISPOSAL PROGRAM

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Daniel W. Thatcher**

House Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill authorizes the attorney general ~~and~~, in coordination with the Department of Environmental Quality (DEQ), to implement and administer a program for the secure, environmentally friendly disposal of a lawfully possessed controlled substance.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes the attorney general ~~and~~, in coordination with the department, to implement and administer a program for the secure, environmentally friendly disposal of a lawfully possessed controlled substance;
- ▶ provides that, in implementing and administering the program, the attorney general:
  - may work with law enforcement, pharmacies, and other entities to establish a

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network of controlled substance disposal repositories or to distribute home controlled substance disposal receptacles;

- may establish certain requirements for a controlled substance disposal repository and a home controlled substance disposal receptacle;
  - shall ensure that the program complies with Drug Enforcement Administration requirements; and
  - may publish a list of controlled substance disposal repositories or information on obtaining a home controlled substance disposal receptacle;
- ▶ ~~{permits the Department of Environmental Quality to maintain and use funds, placed in the Environmental Mitigation and Response Fund for program purposes, to purchase, operate, or maintain a repository, to purchase or distribute home controlled substance disposal receptacles, or to educate citizens on the lawful and environmentally friendly disposal of a controlled substance}~~ amends provisions relating to the General Crime and Violence Prevention Fund for the administration of funds granted or donated for the program described in this bill; and
- ▶ preempts certain action by other state and local government entities in relation to the program.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

~~{19-1-602}~~ 67-5-24, as last amended by Laws of Utah ~~{2018, Chapter 281~~

~~19-1-603~~, as enacted by Laws of Utah 2017, Chapter 246

~~19-1-604~~, as enacted by Laws of Utah 2017, Chapter 246

~~{2013, Chapter 400~~

ENACTS:

**67-5-36**, Utah Code Annotated 1953

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

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Section 1. Section ~~{19-1-602}~~67-5-24 is amended to read:

~~{19-1-602. Definitions:~~

~~As used in this part:~~

~~(1) "Environmental mitigation" means an action or activity intended to remedy, reduce, or offset known negative impacts to the environment.~~

~~(2) "Environmental response action" means action taken to prevent, eliminate, minimize, investigate, monitor, clean up, or remove contaminants in the environment.~~

~~(3) "Financial assurance" means a mechanism or instrument intended to provide funds if necessary to the department to conduct closure, monitoring, or cleanup of a specific facility or site in accordance with the applicable environmental requirements provided in this title.~~

~~(4) "Funding source" means an individual or entity that provides a monetary contribution to the Environmental Mitigation and Response Fund.~~

~~(5) "Home controlled substance disposal receptacle" means the same as that term is defined in Subsection 67-5-36(1).~~

~~{(5)} (6) "Natural resource damage" means damages to land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other resources that are held in trust for the public or otherwise controlled by the United States, the state, or local government.~~

~~(7) "Repository" means the same as that term is defined in Subsection 67-5-36(1).~~

~~{(6)} (8) "Unused funds" means the remaining funds from a specific funding source following the complete implementation of the environmental mitigation or response actions pursuant to the terms and conditions of the contribution.~~

~~Section 2. Section 19-1-603 is amended to read:~~

~~19-1-603. Environmental Mitigation and Response Fund}~~67-5-24. **Attorney General Crime and Violence Prevention Fund -- Use of money -- Restrictions.**

(1) There is created an expendable special revenue fund known as the ~~{Environmental Mitigation}~~Attorney General Crime and ~~{Response}~~Violence Prevention Fund.

(2) The fund ~~{consists}~~shall consist of:

~~(a) public and private funding sources made under Subsections (3) and (4);~~

~~(b) legally binding bankruptcy, financial assurance, or natural resource damage claim~~

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settlements; ~~and~~

~~\_\_\_\_\_ (c) money appropriated by the Legislature; } gifts, grants, devises, donations, and bequests of real property, personal property, or services, from any source, made to the fund[-]; and~~

~~\_\_\_\_\_ (b) money granted by the federal government, or ~~{granted}~~ donated or ~~{donated}~~ granted by ~~{a}~~ another person, for a purpose described in Subsection ~~{19-1-604(2)(c)}~~; and~~

~~\_\_\_\_\_ [(c)] (d) interest earnings on cash balances.~~

~~\_\_\_\_\_ (3) The department may accept contributions for deposit into the fund from public and private sources, including from a source as a condition of a consent decree, settlement agreement, stipulated agreement, or court order.~~

~~\_\_\_\_\_ (4) If funds are deposited as part of a consent decree, settlement agreement, stipulated agreement, or court order, the source of the funding may specify terms and conditions in which the funds may be used;} (4)(n).~~

(3) (a) If the donor designates a specific purpose or use for the gift, grant, devise, donation, or bequest, money from the fund shall be used solely for that purpose.

(b) Gifts, grants, devises, donations, and bequests not designated for a specific purpose under Subsection (3)(a) and that are not restricted to a specific use under federal law, shall be used in connection with the activities under Subsection (4).

(c) The attorney general or the attorney general's designee shall authorize the expenditure of fund money in accordance with ~~{the consent decree, settlement agreement, stipulated agreement, or court order.~~

~~\_\_\_\_\_ (5) Unless mandated by court order, the department may refuse funds if the department determines it is incapable of meeting the terms and conditions of the agreement to obtain the funds, including covering the costs to administer the fund and oversee the implementation of the specific mitigation or response action.~~

~~\_\_\_\_\_ (6) The fund may account for assets held by the state for:~~

~~\_\_\_\_\_ (a) an individual;~~

~~\_\_\_\_\_ (b) a private or public entity;~~

~~\_\_\_\_\_ (c) another governmental unit, including a local or federal agency;~~

~~\_\_\_\_\_ (d) a state agency; or~~

~~\_\_\_\_\_ (e) a Native American tribe.~~

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~~Section 3. Section 19-1-604 is amended to read:~~

~~19-1-604. Environmental mitigation:~~

~~(1) The director shall administer the fund created in Section 19-1-603.~~

~~(2) The director may:~~

~~(a) disburse funds to an authorized individual or public, private, or governmental entity, or Native American tribe to implement a specified environmental mitigation action in accordance with any terms and conditions associated with the funding source, as provided in Subsection 19-1-603(4);~~

~~(b) expend funds to implement certain environmental mitigation actions in accordance with any terms and conditions associated with the funding source, as provided in Subsection 19-1-603(4);~~

~~(c) expend funds to implement an environmental response action or site closure, in accordance with any terms and conditions associated with the funding source, as provided in Subsection 19-1-603(4);~~

~~(d) expend funds to cover actual; this section.~~

~~(d) The money in the fund may not be used for administrative {expenditures in accordance with any terms and conditions associated with the funds as provided in Subsection 19-1-603(4); [and]~~

~~(e) within conditions associated with the funding source, expend funds for; expenses of the Office of the Attorney General normally provided for by legislative appropriation.~~

~~(4) Except as provided under Subsection (3), the fund money shall be used for any of the following activities:~~

~~(a) the Amber Alert program;~~

~~(b) prevention of crime against seniors;~~

~~(c) prevention of domestic violence and dating violence;~~

~~(d) antidrug use programs;~~

~~(e) preventing gangs and gang violence;~~

~~(f) Internet safety programs;~~

~~(g) mentoring Utah partnerships;~~

~~(h) suicide prevention programs;~~

~~(i) underage drinking programs;~~

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(j) anti-pornography programs;

(k) victims assistance programs;

(l) identity theft investigations and prosecutions; [or]

(m) identity theft reporting system database[-]; or

(n) in relation to the drug disposal program described in Section 67-5-36;

(i) the purchase, operation, or maintenance of a repository in the state;

(ii) the purchase or distribution of a home controlled substance disposal receptacle;†

or†

(iii) educating citizens on the lawful and environmentally friendly disposal of a controlled substance; or

~~{(c)}~~ ~~{(f)}~~ return unused funds to the funding source, if required under the terms and conditions as provided; iv) notwithstanding Subsection (3)(d), if not prohibited by the grantor or donor described in Subsection ~~{19-1-603(4)}~~;

~~(3) For an environmental response action conducted pursuant to Subsection 19-1-604(2)(c), the director shall comply with applicable environmental cleanup standards described in this title.~~

~~(4) If the director disburses funds to another state agency in accordance with Subsection (2)(a), that agency may expend the funds in accordance with any terms and conditions associated with the fund contributions as provided in Subsection 19-1-603(4), including returning any unused funds to the department.~~

~~(5) Following the completion of an environmental mitigation and response action, any excess funds not returned to the funding source as provided in Subsection 19-1-603(4) shall be transferred to the Hazardous Substances Mitigation Fund, in accordance with Section 19-6-307.~~

~~67-5-24. Attorney General Crime and Violence Prevention Fund -- Use of money -- Restrictions.~~

~~(1) There is created an expendable special revenue fund known as the Attorney General Crime and Violence Prevention Fund.~~

~~(2) The fund shall consist of gifts, grants, devises, donations, and bequests of real property, personal property, or services, from any source, made to the fund.~~

~~(3) (a) If the donor designates a specific purpose or use for the gift, grant, devise,~~

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~~donation, or bequest, money from the fund shall be used solely for that purpose:~~

~~—— (b) Gifts, grants, devises, donations, and bequests not designated for a specific purpose under Subsection (3)(a) and that are not restricted to a specific use under federal law, shall be used in connection with the activities under Subsection (4):~~

~~—— (c) The attorney general or the attorney general's designee shall authorize the expenditure of fund money in accordance with this section:~~

~~—— (d) The money in the fund may not be used for administrative expenses of the Office of the Attorney General normally provided for by legislative appropriation:~~

~~—— (4) Except as provided under Subsection (3), the fund money shall be used for any of the following activities:~~

~~—— (a) the Amber Alert program;~~

~~—— (b) prevention of crime against seniors;~~

~~—— (c) prevention of domestic violence and dating violence;~~

~~—— (d) antidrug use programs;~~

~~—— (e) preventing gangs and gang violence;~~

~~—— (f) Internet safety programs;~~

~~—— (g) mentoring Utah partnerships;~~

~~—— (h) suicide prevention programs;~~

~~—— (i) underage drinking programs;~~

~~—— (j) antipornography programs;~~

~~—— (k) victims assistance programs;~~

~~—— (l) identity theft investigations and prosecutions; or~~

~~—— (m) identity theft reporting system database.} (2)(b), the costs of administering the drug disposal program, in an amount that does not exceed 10% of the money provided by the grantor or donor.~~

(5) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from the fund money shall be deposited in the fund.

(6) The attorney general shall make an annual report to the Legislature regarding the status of the fund, including a report on the contributions received, expenditures made, and programs and services funded.

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Section ~~4~~2. Section 67-5-36 is enacted to read:

### **67-5-36. Drug Disposal Program.**

(1) As used in the section:

(a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(b) "Department" means the Department of Environmental Quality.

(c) "Environmentally friendly" means a controlled substance that is rendered:

(i) non-retrievable, as determined by the attorney general in consultation with the department;

(ii) non-hazardous, as determined by the department; and

(iii) permissible to dispose in a landfill in a manner that does not violate state or federal law relating to surface water or groundwater.

(d) "Home controlled substance disposal receptacle" means a receptacle provided by the program that can be used by an individual to render a small amount of controlled substances at an individual's residence non-retrievable and environmentally friendly.

(e) "Non-retrievable" means the same as that term is defined in 21 C.F.R. 1300.05.

(f) "Program" means the Drug Disposal Program described in this section.

(g) "Repository" means a controlled substance disposal repository described in Subsection (3).

(2) The attorney general may, in coordination with the department **and within funds available for this purpose**, administer a program, known as the Drug Disposal Program, to provide for the safe, secure, and environmentally friendly disposal of controlled substances in the state.

(3) The attorney general and the department, in developing and implementing the program:

(a) may work with law enforcement agencies, pharmacies, hospitals, and other entities to ensure that one or more repositories are present in each county in the state;

(b) shall ensure that each repository:

(i) renders a controlled substance placed in the repository non-retrievable and environmentally friendly, onsite; and

(ii) is secure from tampering or unauthorized removal;

(c) may require verification that:

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(i) a repository complies with Subsection (3)(b); and

(ii) a home controlled substance disposal receptacle renders a controlled substance non-retrievable and environmentally friendly;

(d) shall ensure that the program operates in accordance with Drug Enforcement Administration rules; and

(e) may publish, on the websites of the attorney general's office and the department:

(i) a list of the location of each repository in the state; and

(ii) if home controlled substance disposal receptacles are used as part of the program, information on how to obtain a home controlled substance disposal receptacle.

(4) The attorney general may, instead of, or in addition to, establishing a repository in a county, establish a process for residents of the county to obtain a home controlled substance disposal receptacle.

(5) A state or local government entity, other than the attorney general's office, the department, or a designee of the department, may not:

(a) regulate the disposal of a controlled substance rendered non-retrievable in a repository or home controlled substance disposal receptacle differently, or more strictly, than disposal of non-hazardous household waste;

(b) regulate or restrict the location of a repository or the distribution of a home controlled substance disposal receptacle; or

(c) otherwise take action to regulate or interfere with administration of the program.

(6) This section does not prohibit the disposal of a controlled substance:

(a) in a receptacle that does not qualify as a repository if:

(i) the receptacle is located on the premises of an entity authorized by Drug Enforcement Administration rules to accept a controlled substance for subsequent disposal; and

(ii) the entity described in Subsection (6)(a)(i) ensures that the controlled substance is managed in a manner permitted by Drug Enforcement Administration rule; or

(b) disposed at a facility that has received the approval required under Section 19-6-108.

(7) Unless otherwise agreed by the attorney general, an entity described in Subsection (3)(a) that permits the placement of a repository on property owned or controlled by the entity will dispose of a controlled substance placed in the repository after the controlled substance is

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rendered environmentally friendly.