

Senator Daniel Hemmert proposes the following substitute bill:

COVID-19 HEALTH AND ECONOMIC RESPONSE ACT

2020 THIRD SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel Hemmert

House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill enacts the COVID-19 Health and Economic Response Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Public Health and Economic Emergency Commission (commission) to advise and make recommendations to the governor regarding the state's response to the COVID-19 emergency;
- ▶ establishes the membership and duties of the commission;
- ▶ requires the commission to provide a plan by a certain date to the governor that moves the state to a less urgent response level; and
- ▶ addresses the governor's response to the commission's plan.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:



- 26 [53-2c-101](#), Utah Code Annotated 1953
- 27 [53-2c-102](#), Utah Code Annotated 1953
- 28 [53-2c-103](#), Utah Code Annotated 1953
- 29 [53-2c-201](#), Utah Code Annotated 1953
- 30 [53-2c-202](#), Utah Code Annotated 1953

31
32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section [53-2c-101](#) is enacted to read:

34 **CHAPTER 2c. COVID-19 HEALTH AND ECONOMIC RESPONSE ACT**

35 **Part 1. General Provisions**

36 **53-2c-101. Title.**

37 This chapter is known as the "COVID-19 Health and Economic Response Act."

38 Section 2. Section [53-2c-102](#) is enacted to read:

39 **53-2c-102. Definitions.**

40 (1) "Commission" means the Public Health and Economic Emergency Commission
41 created in Section [53-2c-201](#).

42 (2) "COVID-19" means:

43 (a) severe acute respiratory syndrome coronavirus 2; or

44 (b) the disease caused by severe acute respiratory syndrome coronavirus 2.

45 (3) "COVID-19 emergency" means the spread of COVID-19 that the World Health
46 Organization declared a pandemic on March 11, 2020.

47 (4) "Elective surgery or procedure" means a surgery or procedure that is not medically
48 necessary to correct a serious medical condition or preserve the life of a patient.

49 (5) "Epidemic or pandemic disease" means the same as that term is defined in Section
50 [26-23b-102](#).

51 (6) "Local ordinance or order" means an ordinance, order, or other regulation enacted
52 or issued by a local government entity.

53 (7) "Public health emergency" means an occurrence or imminent credible threat of an
54 illness or health condition:

55 (a) that is caused by epidemic or pandemic disease;

56 (b) that poses a substantial risk of a significant number of human fatalities or incidents

57 of permanent or long-term disability; and

58 (c) for which the governor has declared a state of emergency under Title 53, Chapter
59 2a, Part 2, Disaster Response and Recovery Act.

60 Section 3. Section **53-2c-103** is enacted to read:

61 **53-2c-103. Relation to other provisions.**

62 (1) This chapter supersedes any conflicting provisions of Utah law.

63 (2) (a) If the governor adopts, by order, a recommendation made by the commission,
64 the adopted recommendation supersedes any portion of a local ordinance or order that is more
65 restrictive than or in direct conflict with the adopted recommendation, unless the governor
66 allows an exception at the time the governor adopts the recommendation or at anytime
67 thereafter.

68 (b) If an adopted recommendation supersedes a portion of a local ordinance or order
69 under Subsection (2)(a), the remaining portion of the local ordinance or order remains valid.

70 (3) The governor may not suspend the application or enforcement of any provision of
71 this chapter.

72 Section 4. Section **53-2c-201** is enacted to read:

73 **Part 2. Health and Economic Response**

74 **53-2c-201. Public Health and Economic Emergency Commission -- Creation --**
75 **Membership -- Quorum -- Per diem -- Staff support -- Meetings.**

76 (1) There is created the Public Health and Economic Emergency Commission
77 consisting of the following members:

78 (a) the executive director of the Department of Health, or the executive director's
79 designee;

80 (b) four individuals, appointed by the governor, including:

81 (i) the chief executive of a for profit health care organization that operates at least one
82 hospital in the state;

83 (ii) the chief executive of a not-for-profit health care organization that operates at least
84 one hospital in the state; and

85 (iii) two other individuals;

86 (c) two individuals appointed by the president of the Senate; and

87 (d) two individuals appointed by the speaker of the House of Representatives.

88 (2) (a) The president of the Senate and the speaker of the House of Representatives
89 shall jointly designate one of the members appointed under Subsection (1)(c) or (d) as chair of
90 the commission.

91 (b) For an appointment under Subsection (1)(c) or (d), the president of the Senate or
92 the speaker of the House of Representatives may appoint a legislator or a non-legislator.

93 (3) (a) If a vacancy occurs in the membership of the commission appointed under
94 Subsection (1)(b), (c), or (d), the member shall be replaced in the same manner in which the
95 original appointment was made.

96 (b) A member of the commission serves until the member's successor is appointed and
97 qualified.

98 (4) (a) A majority of the commission members constitutes a quorum.

99 (b) The action of a majority of a quorum constitutes an action of the commission.

100 (5) (a) The salary and expenses of a commission member who is a legislator shall be
101 paid in accordance with Section 36-2-2, Legislative Joint Rules, Title 5, Chapter 2, Lodging,
102 Meal, and Transportation Expenses, and Legislative Joint Rules, Title 5, Chapter 3, Legislator
103 Compensation.

104 (b) A commission member who is not a legislator may not receive compensation or
105 benefits for the member's service on the commission, but may receive per diem and
106 reimbursement for travel expenses incurred as a commission member at the rates established by
107 the Division of Finance under:

108 (i) Sections 63A-3-106 and 63A-3-107; and

109 (ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
110 63A-3-107.

111 (6) The Governor's Office of Management and Budget shall:

112 (a) provide staff support to the commission; and

113 (b) coordinate with the Office of Legislative Research and General Counsel regarding
114 the commission.

115 (7) A meeting of the commission that takes place during a public health emergency is
116 not subject to Title 52, Chapter 4, Open and Public Meetings Act.

117 Section 5. Section 53-2c-202 is enacted to read:

118 **53-2c-202. Commission duties -- Recommendations -- Governor's response.**

119 (1) The commission shall advise and make recommendations to the governor regarding
120 the state's response to the COVID-19 emergency.

121 (2) As part of the commission's duties under Subsection (1), the commission shall:

122 (a) identify at least three economic and health guidance levels that may be used to:

123 (i) establish an overall risk assessment for the state; and

124 (ii) provide targeted risk assessments based on:

125 (A) geographic areas of the state;

126 (B) groups of individuals, based on each group's risk level of serious illness from
127 COVID-19 due to demographic characteristics, including age or underlying health conditions;

128 (C) groups of individuals, based on each group's personal experience with COVID-19,
129 including testing positive for, having symptoms of, or having recovered from COVID-19; or

130 (D) industries;

131 (b) establish criteria for assigning each economic and health guidance level described
132 in Subsection (2)(a);

133 (c) identify the social and economic activities that the commission recommends take
134 place or be restricted under each economic and health guidance level described in Subsection
135 (2)(a);

136 (d) develop a plan to promote widespread testing of individuals for COVID-19;

137 (e) develop a plan to encourage individuals to use available technology to allow the
138 state to identify and track the prevalence and transmission of COVID-19; and

139 (f) develop universal communication elements for governmental entities to use in
140 messaging related to the COVID-19 emergency.

141 (3) (a) On or before April 22, 2020, the commission shall present a plan to the
142 governor that:

143 (i) provides for the state to operate under an economic and health guidance level
144 described in Subsection (2)(a)(i) that is immediately below the highest risk economic and
145 health guidance level;

146 (ii) includes reasonable guidelines under which health care providers may perform
147 elective surgeries and procedures and restaurants may resume or continue, subject to the
148 reasonable guidelines, normal operations; and

149 (iii) is available to the public.

150 (b) If the governor does not implement the commission's plan described in Subsection
151 (3)(a) on or before April 30, 2020, the governor shall, on or before April 30, 2020, issue a
152 public statement that explains the governor's decision, including the generally accepted data the
153 governor relied upon in reaching the decision.

154 (4) In conducting the commission's work, the commission shall:

155 (a) focus on the overall well-being of the state's residents by balancing economic and
156 public health considerations and exploring all options to mitigate the impact of the COVID-19
157 emergency on daily life; and

158 (b) consult with local government officials, as appropriate.

159 Section 6. **Effective date.**

160 If approved by two-thirds of all the members elected to each house, this bill takes effect
161 upon approval by the governor, or the day following the constitutional time limit of Utah
162 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
163 the date of veto override.