

**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

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**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

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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;

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

88 (e) one individual appointed by the chief executive officer of the Utah Association of  
89 Counties.

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

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

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

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

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

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

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

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

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

111 (ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
112 63A-3-107.

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

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

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

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

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

120 **53-2c-202. Commission duties -- Recommendations -- Governor's response.**

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

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

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

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

126 (ii) provide targeted risk assessments based on:

127 (A) geographic areas of the state;

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

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

132 (D) industries;

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

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

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

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

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

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

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

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

150 reasonable guidelines, normal operations; and

151 (iii) is available to the public.

152 (b) If the governor does not implement the commission's plan described in Subsection

153 (3)(a) on or before April 30, 2020, the governor shall, on or before April 30, 2020, issue a

154 public statement that explains the governor's decision, including the generally accepted data the

155 governor relied upon in reaching the decision.

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

157 (a) focus on the overall well-being of the state's residents by balancing economic and

158 public health considerations and exploring all options to mitigate the impact of the COVID-19

159 emergency on daily life; and

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

161 **Section 6. Effective date.**

162 If approved by two-thirds of all the members elected to each house, this bill takes effect

163 upon approval by the governor, or the day following the constitutional time limit of Utah

164 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,

165 the date of veto override.