

1 PANDEMIC EMERGENCY POWERS AMENDMENTS

2 2021 GENERAL SESSION

3 STATE OF UTAH

4 Chief Sponsor: Paul Ray

5 Senate Sponsor: Derrin R. Owens

6	Cosponsors:	Stephen G. Handy	Douglas V. Sagers
7	Cheryl K. Acton	Dan N. Johnson	Rex P. Shipp
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12	Scott H. Chew	Candice B. Pierucci	
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15 LONG TITLE

16 General Description:

17 This bill provides for the termination of emergency powers and certain public health
18 orders related to COVID-19 upon reaching certain thresholds of positivity rates,
19 vaccination, and other criteria.

20 Highlighted Provisions:

21 This bill:

- 22 ▶ provides for the termination of certain emergency powers and public health orders
- 23 related to COVID-19 upon reaching certain thresholds of positivity rates, case rates,
- 24 intensive care facility capacities, and vaccine doses;
- 25 ▶ allows health and safety measures in a K-12 school under certain circumstances;
- 26 ▶ allows a local health department, with approval from the county legislative body, to
- 27 take certain health and safety measures;
- 28 ▶ allows a public health emergency declared by the Department of Health or a local

- 29 health department to remain in effect;
- 30 ▶ allows the governor and the Department of Health to issue a public health order
- 31 related to the distribution of COVID-19 vaccines;
- 32 ▶ provides an automatic repeal date; and
- 33 ▶ makes technical changes.

34 **Money Appropriated in this Bill:**

35 None

36 **Other Special Clauses:**

37 This bill provides a special effective date.

38 **Utah Code Sections Affected:**

39 AMENDS:

40 **63I-2-226**, as last amended by Laws of Utah 2020, Chapters 154, 187, 215, and 354

41 **63I-2-253**, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 13

42 ENACTS:

43 **26-6-33**, Utah Code Annotated 1953

44 **26A-1-130**, Utah Code Annotated 1953

45 **53-2a-218**, Utah Code Annotated 1953



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

48 Section 1. Section **26-6-33** is enacted to read:

49 **26-6-33. Termination of public health emergency powers pertaining to**

50 **COVID-19.**

51 (1) As used in this section:

52 (a) "COVID-19" means:

53 (i) severe acute respiratory syndrome coronavirus 2; or

54 (ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

55 (b) "COVID-19 emergency" means the spread of COVID-19 that the World Health

56 Organization declared a pandemic on March 11, 2020.

57 (2) Except as provided in Subsections (3), (4), and (5), any public health order in effect
58 pertaining to any response to COVID-19 and the COVID-19 emergency issued pursuant to a
59 public health emergency declared by the Department of Health or a local health department is
60 terminated on the day on which the following thresholds are met:

- 61 (a) the state's 14-day case rate is less than 191 per 100,000 people;
- 62 (b) the statewide seven-day average COVID-19 ICU utilization is less than 15%; and
- 63 (c) the Department of Health provides notice that 1,633,000 prime doses of a
64 COVID-19 vaccine have been allocated to the state.

65 (3) (a) Subject to Subsection (3)(b), a public health order issued by the Department of
66 Health issued pursuant to a public health emergency declared by the Department of Health
67 pertaining to response to COVID-19 and the COVID-19 emergency that pertains to public
68 health safety measures in a K-12 school may remain in place.

69 (b) A public health order or health and safety requirement described in Subsection
70 (3)(a) shall be terminated no later than July 1, 2021.

71 (4) (a) Except as provided in Subsection (4)(b) or (c), a public health order issued by
72 the Department of Health pertaining to a statewide mask requirement in response to the
73 COVID-19 emergency is terminated on April 10, 2021.

74 (b) Notwithstanding Subsection (4)(a), but subject to Subsection (4)(d), a public health
75 order pertaining to the wearing of a mask issued by the Department of Health may remain in
76 effect if:

- 77 (i) the mask requirement pertains only to a gathering of 50 or more people; and
- 78 (ii) an individual at the gathering of 50 or more people is unable to physically distance
79 at least six feet from another individual who is not a member of the individual's party.

80 (c) Subject to Subsection (4)(d), a local health department, with approval from the
81 relevant county legislative body, may issue a public health order requiring the wearing of a
82 mask.

83 (d) A public health order described in Subsection (4)(b) or (c) is terminated on the date
84 the thresholds described in Subsection (2) are met.

85 (5) Notwithstanding Subsections (2), (3), or (4):

86 (a) a declaration of a public health emergency issued by the Department of Health in
87 response to COVID-19 or the COVID-19 emergency may remain in effect; and

88 (b) the governor and the Department of Health may issue a public health order related
89 to the distribution of COVID-19 vaccines.

90 Section 2. Section **26A-1-130** is enacted to read:

91 **26A-1-130. Termination of local public health emergency powers pertaining to**
92 **COVID-19.**

93 (1) As used in this section:

94 (a) "COVID-19" means:

95 (i) severe acute respiratory syndrome coronavirus 2; or

96 (ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

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

99 (2) Except as provided in Subsections (3), (4), and (5), any public health order in effect
100 pertaining to any response to COVID-19 and the COVID-19 emergency issued pursuant to a
101 public health emergency declared by the Department of Health or a local health department is
102 terminated on the day on which the following thresholds are met:

103 (a) the state's 14-day case rate is less than 191 per 100,000 people;

104 (b) the statewide seven-day average COVID-19 ICU utilization is less than 15%; and

105 (c) the Department of Health provides notice that 1,633,000 prime doses of a
106 COVID-19 vaccine have been allocated to the state.

107 (3) (a) Subject to Subsection (3)(b), a public health order issued by the Department of
108 Health or a local health department issued pursuant to a public health emergency declared by
109 the Department of Health or a local health department pertaining to response to COVID-19 and
110 the COVID-19 emergency that pertains to public health safety measures in a K-12 school may
111 remain in place.

112 (b) A public health order or health and safety requirement described in Subsection

113 (3)(a) shall be terminated no later than July 1, 2021.

114 (4) (a) Except as provided in Subsection (4)(b) or (c), a public health order issued by
115 the Department of Health or a local health department pertaining to a statewide mask
116 requirement in response to the COVID-19 emergency is terminated on April 10, 2021.

117 (b) Notwithstanding Subsection (4)(a), but subject to Subsection (4)(d), a public health
118 order pertaining to the wearing of a mask issued by the Department of Health or a local health
119 department may remain in effect if:

120 (i) the mask requirement pertains only to a gathering of 50 or more people; and

121 (ii) an individual at the gathering of 50 or more people is unable to physically distance
122 at least six feet from another individual who is not a member of the individual's party.

123 (c) Subject to Subsection (4)(d), a local health department, with approval from the
124 relevant county legislative body, may issue a public health order requiring the wearing of a
125 mask.

126 (d) A public health order described in Subsection (4)(b) or (c) is terminated on the date
127 the thresholds described in Subsection (2) are met.

128 (5) Notwithstanding Subsections (2), (3), or (4):

129 (a) a declaration of a public health emergency issued by the Department of Health or a
130 local health department in response to COVID-19 or the COVID-19 emergency may remain in
131 effect; and

132 (b) the governor, the Department of Health, or a local health department may issue a
133 public health order related to the distribution of COVID-19 vaccines.

134 Section 3. Section **53-2a-218** is enacted to read:

135 **53-2a-218. Termination of emergency powers pertaining to COVID-19.**

136 (1) As used in this section:

137 (a) "COVID-19" means:

138 (i) severe acute respiratory syndrome coronavirus 2; or

139 (ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

140 (b) "COVID-19 emergency" means the spread of COVID-19 that the World Health

141 Organization declared a pandemic on March 11, 2020.

142 (2) Except as provided in Subsections (3), (4), and (5), a state of emergency and any
143 executive order issued pursuant to this part pertaining to any response to COVID-19 and the
144 COVID-19 emergency is terminated on the day on which the following thresholds are met:

- 145 (a) the state's 14-day case rate is less than 191 per 100,000 people;
- 146 (b) the statewide seven-day average COVID-19 ICU utilization is less than 15%; and
- 147 (c) the Department of Health provides notice that 1,633,000 prime doses of a
148 COVID-19 vaccine have been allocated to the state.

149 (3) (a) Subject to Subsection (3)(b), a public health order issued by the Department of
150 Health or a local health department issued pursuant to a public health emergency declared by
151 the Department of Health or a local health department pertaining to response to COVID-19 and
152 the COVID-19 emergency that pertains to public health safety measures in a K-12 school may
153 remain in place.

154 (b) A public health order or health and safety requirement described in Subsection
155 (3)(a) shall be terminated no later than July 1, 2021.

156 (4) (a) Except as provided in Subsection (4)(b) or (c), a public health order issued by
157 the Department of Health or a local health department pertaining to a statewide mask
158 requirement in response to the COVID-19 emergency is terminated on April 10, 2021.

159 (b) Notwithstanding Subsection (4)(a), but subject to Subsection (4)(d), a public health
160 order pertaining to the wearing of a mask issued by the Department of Health or a local health
161 department may remain in effect if:

- 162 (i) the mask requirement pertains only to a gathering of 50 or more people; and
- 163 (ii) an individual at the gathering of 50 or more people is unable to physically distance
164 at least six feet from another individual who is not a member of the individual's party.

165 (c) Subject to Subsection (4)(d), a local health department, with approval from the
166 relevant county legislative body, may issue a public health order requiring the wearing of a
167 mask.

168 (d) A public health order described in Subsection (4)(b) or (c) is terminated on the date

169 the thresholds described in Subsection (2) are met.

170 (5) Notwithstanding Subsections (2), (3), or (4):

171 (a) a declaration of a public health emergency issued by the Department of Health or a
172 local health department in response to COVID-19 or the COVID-19 emergency may remain in
173 effect; and

174 (b) the governor, the Department of Health, or a local health department may issue a
175 public health order related to the distribution of COVID-19 vaccines.

176 Section 4. Section **63I-2-226** is amended to read:

177 **63I-2-226. Repeal dates, Title 26.**

178 (1) Subsection 26-1-7(1)(c), in relation to the Air Ambulance Committee, is repealed
179 July 1, 2024.

180 (2) Section 26-6-33, in relation to termination of public health emergency powers
181 pertaining to COVID-19, is repealed on July 1, 2021.

182 [~~2~~] (3) Subsection 26-7-8(3) is repealed January 1, 2027.

183 [~~3~~] (4) Section 26-8a-107 is repealed July 1, 2024.

184 [~~4~~] (5) Subsection 26-8a-203(3)(a)(i) is repealed January 1, 2023.

185 [~~5~~] (6) Section 26-8a-211 is repealed July 1, 2023.

186 [~~6~~] (7) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection
187 26-8a-602(1)(a) is amended to read:

188 "(a) provide the patient or the patient's representative with the following information
189 before contacting an air medical transport provider:

190 (i) which health insurers in the state the air medical transport provider contracts with;

191 (ii) if sufficient data is available, the average charge for air medical transport services
192 for a patient who is uninsured or out of network; and

193 (iii) whether the air medical transport provider balance bills a patient for any charge
194 not paid by the patient's health insurer; and".

195 [~~7~~] (8) Subsection 26-18-2.4(3)(e) is repealed January 1, 2023.

196 [~~8~~] (9) Subsection 26-18-411(8), related to reporting on the health coverage

197 improvement program, is repealed January 1, 2023.

198 ~~[(9)]~~ (10) Subsection 26-18-420(5), related to reporting on coverage for in vitro
199 fertilization and genetic testing, is repealed July 1, 2030.

200 ~~[(10)]~~ (11) Subsection 26-21-28(2)(b) is repealed January 1, 2021.

201 ~~[(11)]~~ (12) In relation to the Air Ambulance Committee, July 1, 2024, Subsection
202 26-21-32(1)(a) is amended to read:

203 "(a) provide the patient or the patient's representative with the following information
204 before contacting an air medical transport provider:

205 (i) which health insurers in the state the air medical transport provider contracts with;

206 (ii) if sufficient data is available, the average charge for air medical transport services
207 for a patient who is uninsured or out of network; and

208 (iii) whether the air medical transport provider balance bills a patient for any charge
209 not paid by the patient's health insurer; and".

210 ~~[(12)]~~ (13) Subsection 26-33a-106.1(2)(a) is repealed January 1, 2023.

211 ~~[(13)]~~ (14) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance
212 Program, is repealed July 1, 2027.

213 ~~[(14)]~~ (15) Subsection 26-55-107(8) is repealed January 1, 2021.

214 ~~[(15)]~~ (16) Subsection 26-61-202(4)(b) is repealed January 1, 2022.

215 ~~[(16)]~~ (17) Subsection 26-61-202(5) is repealed January 1, 2022.

216 (18) Section 26A-1-130, in relation to termination of public health emergency powers
217 pertaining to COVID-19, is repealed on July 1, 2021.

218 Section 5. Section **63I-2-253** is amended to read:

219 **63I-2-253. Repeal dates -- Titles 53 through 53G.**

220 (1) (a) Section 53-2a-217, regarding procurement during an epidemic or pandemic
221 emergency, is repealed on December 31, 2021.

222 (b) When repealing Section 53-2a-217, the Office of Legislative Research and General
223 Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make
224 necessary changes to subsection numbering and cross references.

225 (2) Section 53-2a-218, in relation to termination of emergency powers pertaining to
226 COVID-19, is repealed on July 1, 2021.

227 ~~[(2)]~~ (3) Section 53B-2a-103 is repealed July 1, 2021.

228 ~~[(3)]~~ (4) Section 53B-2a-104 is repealed July 1, 2021.

229 ~~[(4)]~~ (5) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a
230 technical college board of trustees, is repealed July 1, 2022.

231 (b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and
232 General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make
233 necessary changes to subsection numbering and cross references.

234 ~~[(5)]~~ (6) Section 53B-6-105.7 is repealed July 1, 2024.

235 ~~[(6)]~~ (7) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states "Except as
236 provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

237 (b) Subsection 53B-7-705(6)(b)(ii)(B), regarding comparing a technical college's
238 change in performance with the technical college's average performance, is repealed July 1,
239 2021.

240 ~~[(7)]~~ (8) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as
241 provided in Subsection (3)(b)," is repealed July 1, 2021.

242 (b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college
243 during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

244 ~~[(8)]~~ (9) Section 53B-8-114 is repealed July 1, 2024.

245 ~~[(9)]~~ (10) (a) The following sections, regarding the Regents' scholarship program, are
246 repealed on July 1, 2023:

247 (i) Section 53B-8-202;

248 (ii) Section 53B-8-203;

249 (iii) Section 53B-8-204; and

250 (iv) Section 53B-8-205.

251 (b) (i) Subsection 53B-8-201(2), regarding the Regents' scholarship program for
252 students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.

253 (ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and
254 General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make
255 necessary changes to subsection numbering and cross references.

256 [~~(10)~~] (11) Section 53B-10-101 is repealed on July 1, 2027.

257 [~~(11)~~] (12) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project,
258 is repealed July 1, 2023.

259 [~~(12)~~] (13) Section 53E-3-519 regarding school counselor services is repealed July 1,
260 2020.

261 [~~(13)~~] (14) Section 53E-3-520 is repealed July 1, 2021.

262 [~~(14)~~] (15) Subsection 53E-5-306(3)(b)(ii)(B), related to improving school
263 performance and continued funding relating to the School Recognition and Reward Program, is
264 repealed July 1, 2020.

265 [~~(15)~~] (16) Section 53E-5-307 is repealed July 1, 2020.

266 [~~(16)~~] (17) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed
267 July 1, 2024.

268 [~~(17)~~] (18) In Subsections 53F-2-205(4) and (5), regarding the State Board of
269 Education's duties if contributions from the minimum basic tax rate are overestimated or
270 underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1,
271 2023.

272 [~~(18)~~] (19) Subsection 53F-2-301(1), relating to the years the section is not in effect, is
273 repealed July 1, 2023.

274 [~~(19)~~] (20) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as
275 applicable" is repealed July 1, 2023.

276 [~~(20)~~] (21) Section 53F-4-207 is repealed July 1, 2022.

277 [~~(21)~~] (22) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as
278 applicable" is repealed July 1, 2023.

279 [~~(22)~~] (23) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as
280 applicable" is repealed July 1, 2023.

281 [~~(23)~~] (24) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as
282 applicable" is repealed July 1, 2023.

283 [~~(24)~~] (25) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5,
284 as applicable" is repealed July 1, 2023.

285 [~~(25)~~] (26) Subsections 53G-10-204(1)(c) through (e), and Subsection 53G-10-204(7),
286 related to the civics engagement pilot program, are repealed on July 1, 2023.

287 [~~(26)~~] (27) On July 1, 2023, when making changes in this section, the Office of
288 Legislative Research and General Counsel shall, in addition to the office's authority under
289 Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections
290 identified in this section are complete sentences and accurately reflect the office's perception of
291 the Legislature's intent.

292 Section 6. **Effective date.**

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