HB0077S01 compared with HB0077

~~{deleted text}~~ shows text that was in HB0077 but was deleted in HB0077S01.

inserted text shows text that was not in HB0077 but was inserted into HB0077S01.

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 Curtis S. Bramble proposes the following substitute bill:

LOCAL DISTRICT REVISIONS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stewart E. Barlow

Senate Sponsor: ~~{_____}~~Curtis S. Bramble

LONG TITLE

~~{**Committee Note:**~~

~~The Government Operations Interim Committee recommended this bill.~~

~~Legislative Vote: 11 voting for 0 voting against 3 absent~~

~~}~~**General Description:**

This bill is ~~{the first}~~one of two bills that, together change the name of "local district" to "special district" throughout the Utah Code.

Highlighted Provisions:

This bill:

- replaces the term "local district" with the term "special district" throughout the Utah Code; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

~~{ None }~~ This bill provides revisor instructions.

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

8-5-5, as last amended by Laws of Utah 2007, Chapter 329

10-2-401, as last amended by Laws of Utah 2021, Chapter 112

10-2-403, as last amended by Laws of Utah 2021, Chapter 112

10-2-406, as last amended by Laws of Utah 2021, First Special Session, Chapter 15

10-2-412, as last amended by Laws of Utah 2007, Chapter 329

10-2-413, as last amended by Laws of Utah 2019, Chapter 255

10-2-414, as last amended by Laws of Utah 2021, Chapter 112

10-2-418, as last amended by Laws of Utah 2021, First Special Session, Chapter 15

10-2-419, as last amended by Laws of Utah 2021, First Special Session, Chapter 15

10-2-425, as last amended by Laws of Utah 2019, Chapter 159

10-2-428, as last amended by Laws of Utah 2008, Chapter 360

10-2a-205, as last amended by Laws of Utah 2019, Chapter 165

10-2a-210, as last amended by Laws of Utah 2021, First Special Session, Chapter 15

10-2a-404, as last amended by Laws of Utah 2021, First Special Session, Chapter 15

10-3c-102, as enacted by Laws of Utah 2015, Chapter 352

10-9a-103, as last amended by Laws of Utah 2022, Chapters 355, 406

10-9a-305, as last amended by Laws of Utah 2021, Chapter 35

10-9a-529, as last amended by Laws of Utah 2021, Chapter 385

11-2-1, as last amended by Laws of Utah 2007, Chapter 329

11-13-103, as last amended by Laws of Utah 2020, Chapter 381

11-13a-102, as enacted by Laws of Utah 2017, Chapter 441

11-14-102, as last amended by Laws of Utah 2016, Chapter 176

11-14a-1, as last amended by Laws of Utah 2021, Chapter 355

11-27-2, as last amended by Laws of Utah 2020, Chapter 365

11-30-2, as last amended by Laws of Utah 2010, Chapter 378

11-31-2, as last amended by Laws of Utah 2016, Chapter 350

11-32-2, as last amended by Laws of Utah 2016, Chapter 350

11-34-1, as last amended by Laws of Utah 2016, Chapter 350

11-36a-102, as last amended by Laws of Utah 2022, Chapter 237

11-36a-203, as enacted by Laws of Utah 2011, Chapter 47

11-36a-502, as enacted by Laws of Utah 2011, Chapter 47

11-36a-504, as last amended by Laws of Utah 2021, Chapters 84, 345

11-39-101, as last amended by Laws of Utah 2018, Chapter 103

11-39-107, as last amended by Laws of Utah 2014, Chapter 196

11-40-101, as last amended by Laws of Utah 2008, Chapter 360

11-41-102, as last amended by Laws of Utah 2022, Chapter 307

11-42-102, as last amended by Laws of Utah 2021, Chapters 314, 415

11-42a-102, as last amended by Laws of Utah 2021, Chapter 280

11-43-102, as last amended by Laws of Utah 2008, Chapter 360

11-47-102, as enacted by Laws of Utah 2011, Chapter 45

11-48-101.5, as enacted by Laws of Utah 2021, Chapter 265

11-48-103, as enacted by Laws of Utah 2021, Chapter 265

11-50-102, as last amended by Laws of Utah 2016, Chapter 350

11-52-102, as last amended by Laws of Utah 2016, Chapter 350

11-54-102, as last amended by Laws of Utah 2019, Chapter 136

11-55-102, as enacted by Laws of Utah 2017, Chapter 70

11-57-102, as enacted by Laws of Utah 2017, Chapter 354

11-58-102, as last amended by Laws of Utah 2022, Chapter 82

11-58-205, as last amended by Laws of Utah 2022, Chapter 82

11-59-102, as last amended by Laws of Utah 2022, Chapter 237

11-59-204, as last amended by Laws of Utah 2021, Chapter 415

11-60-102, as enacted by Laws of Utah 2018, Chapter 197

11-61-102, as enacted by Laws of Utah 2018, Chapter 188

11-65-101, as enacted by Laws of Utah 2022, Chapter 59

13-8-5, as last amended by Laws of Utah 2017, Chapter 373

14-1-18, as last amended by Laws of Utah 2016, Chapter 350

15-7-2, as last amended by Laws of Utah 2016, Chapter 350

19-3-301, as last amended by Laws of Utah 2021, Chapter 184

19-4-111, as last amended by Laws of Utah 2013, Chapter 321

19-6-508, as enacted by Laws of Utah 2016, Chapters 273, 346

26-8a-102, as last amended by Laws of Utah 2022, Chapters 255, 351 and 404

26-8a-405.2, as last amended by Laws of Utah 2011, Chapter 297

26-8a-603, as enacted by Laws of Utah 2022, Chapter 347

26-18-21, as last amended by Laws of Utah 2019, Chapter 393

31A-23a-501, as last amended by Laws of Utah 2021, Chapter 252

34-30-14, as last amended by Laws of Utah 2007, Chapter 329

34-32-1.1, as last amended by Laws of Utah 2012, Chapter 369

34-41-101, as last amended by Laws of Utah 2021, Chapter 345

34-52-102, as last amended by Laws of Utah 2019, Chapter 371

35A-1-102, as last amended by Laws of Utah 2018, Chapters 415, 427

36-11-102, as last amended by Laws of Utah 2022, Chapter 125

36-11-201, as last amended by Laws of Utah 2022, Chapter 125

36-11-304, as last amended by Laws of Utah 2022, Chapter 125

36-12-13, as last amended by Laws of Utah 2021, Chapters 254, 421

38-1b-102, as last amended by Laws of Utah 2022, Chapter 415

38-9-102, as renumbered and amended by Laws of Utah 2014, Chapter 114

45-1-101, as last amended by Laws of Utah 2021, Chapters 84, 345

49-11-102, as last amended by Laws of Utah 2020, Chapter 365

49-11-205, as enacted by Laws of Utah 2019, Chapter 31

51-4-2, as last amended by Laws of Utah 2017, Chapter 64

51-7-3, as last amended by Laws of Utah 2017, Chapter 338

52-4-203, as last amended by Laws of Utah 2022, Chapter 402

52-8-102, as renumbered and amended by Laws of Utah 2008, Chapter 382

53-2a-203, as last amended by Laws of Utah 2021, Chapter 437

53-2a-302, as last amended by Laws of Utah 2019, Chapter 349

53-2a-305, as renumbered and amended by Laws of Utah 2013, Chapter 295

53-2a-602, as last amended by Laws of Utah 2016, Chapters 83, 134

53-2a-605, as last amended by Laws of Utah 2015, Chapter 265

53-2a-1301, as enacted by Laws of Utah 2019, Chapter 306

53-3-207, as last amended by Laws of Utah 2022, Chapter 158

53-5-708, as last amended by Laws of Utah 2013, Chapters 298, 445

53-7-104, as last amended by Laws of Utah 2010, Chapter 310

53-21-101, as enacted by Laws of Utah 2022, Chapter 114

53B-16-104, as last amended by Laws of Utah 2007, Chapter 329

53B-28-402, as last amended by Laws of Utah 2021, Chapter 187

53G-3-204, as last amended by Laws of Utah 2021, Chapters 84, 162 and 345

53G-4-402, as last amended by Laws of Utah 2021, Chapters 84, 262, 324, and 345

54-3-28, as last amended by Laws of Utah 2021, Chapters 162, 345 and 382

54-14-103, as last amended by Laws of Utah 2009, Chapter 316

57-8-27, as last amended by Laws of Utah 2016, Chapter 255

59-2-102, as last amended by Laws of Utah 2022, Chapter 239

59-2-511, as last amended by Laws of Utah 2007, Chapter 329

59-2-919, as last amended by Laws of Utah 2021, Chapters 84, 345

59-2-924.2, as last amended by Laws of Utah 2022, Chapter 451

59-2-1101, as last amended by Laws of Utah 2022, Chapter 235

59-2-1317, as last amended by Laws of Utah 2022, Chapter 463

59-2-1710, as enacted by Laws of Utah 2012, Chapter 197

63A-5b-901, as last amended by Laws of Utah 2022, Chapter 421

63A-5b-1102, as renumbered and amended by Laws of Utah 2020, Chapter 152

63A-9-101, as last amended by Laws of Utah 2021, Chapter 344

63A-9-401, as last amended by Laws of Utah 2022, Chapter 169

63A-15-102, as renumbered and amended by Laws of Utah 2018, Chapter 461

63A-15-201, as last amended by Laws of Utah 2022, Chapter 125

63C-24-102, as enacted by Laws of Utah 2021, Chapter 155

63E-1-102, as last amended by Laws of Utah 2022, Chapters 44, 63

63G-2-103, as last amended by Laws of Utah 2021, Chapters 211, 283

63G-2-305, as last amended by Laws of Utah 2022, Chapters 11, 109, 198, 201, 303, 335, 388, 391, and 415

63G-6a-103, as last amended by Laws of Utah 2022, Chapters 421, 422

63G-6a-118, as enacted by Laws of Utah 2020, Chapter 257

63G-6a-202, as last amended by Laws of Utah 2021, Chapter 344

63G-6a-2402, as last amended by Laws of Utah 2017, Chapter 181

63G-7-102, as last amended by Laws of Utah 2022, Chapter 346

63G-7-401, as last amended by Laws of Utah 2021, Chapter 326

63G-9-201, as last amended by Laws of Utah 2016, Chapter 350

63G-12-102, as last amended by Laws of Utah 2022, Chapter 430

63G-22-102, as last amended by Laws of Utah 2021, Chapter 345

63G-26-102, as enacted by Laws of Utah 2020, Chapter 393

63H-1-102, as last amended by Laws of Utah 2022, Chapters 82, 274

63H-1-202, as last amended by Laws of Utah 2022, Chapters 274, 463

63I-5-102, as last amended by Laws of Utah 2020, Chapter 365

63J-1-220, as last amended by Laws of Utah 2021, Chapter 382

63J-4-102, as last amended by Laws of Utah 2021, Chapter 382

63J-4-801, as enacted by Laws of Utah 2021, First Special Session, Chapter 4

63L-4-102, as renumbered and amended by Laws of Utah 2008, Chapter 382

63L-5-102, as renumbered and amended by Laws of Utah 2008, Chapter 382

63L-11-102, as renumbered and amended by Laws of Utah 2021, Chapter 382

63M-5-103, as renumbered and amended by Laws of Utah 2008, Chapter 382

65A-8-203, as last amended by Laws of Utah 2021, Chapter 97

67-1a-6.5, as last amended by Laws of Utah 2021, Chapters 162, 345

67-1a-15, as last amended by Laws of Utah 2020, Chapter 30

67-1b-102, as enacted by Laws of Utah 2021, Chapter 394

67-3-1, as last amended by Laws of Utah 2022, Chapter 307

67-3-12, as last amended by Laws of Utah 2022, Chapters 169, 205 and 274

67-3-13, as enacted by Laws of Utah 2021, Chapter 155

67-11-2, as last amended by Laws of Utah 2007, Chapters 306, 329

67-21-2, as last amended by Laws of Utah 2022, Chapter 174

71-8-1, as last amended by Laws of Utah 2018, Chapter 39

71-10-1, as last amended by Laws of Utah 2016, Chapter 230

72-2-201, as last amended by Laws of Utah 2021, Chapters 121, 411

72-14-304, as enacted by Laws of Utah 2018, Chapter 40

73-2-1 (Superseded 05/03/23), as last amended by Laws of Utah 2022, Chapters 75, 225

73-2-1 (Effective 05/03/23), as last amended by Laws of Utah 2022, Chapters 75, 225 and 311

73-5-15, as last amended by Laws of Utah 2012, Chapter 97

73-10-21, as last amended by Laws of Utah 2008, Chapter 360

76-1-101.5, as renumbered and amended by Laws of Utah 2022, Chapter 181

77-23d-102, as enacted by Laws of Utah 2015, Chapter 447

77-38-601, as enacted by Laws of Utah 2022, Chapter 215

78B-2-216, as last amended by Laws of Utah 2014, Chapter 377

78B-4-509, as last amended by Laws of Utah 2020, Chapter 125

78B-6-2301, as enacted by Laws of Utah 2022, Chapter 428

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

Section 1. Section **8-5-5** is amended to read:

8-5-5. Proceeds of resale of lots.

The proceeds from the subsequent resale of any lot or parcel, title to which has been revested in the municipality or cemetery maintenance district under Section 8-5-2 or 8-5-6, less the costs and expenses incurred in the proceeding, shall become part of the permanent care and improvement fund of the municipality or cemetery maintenance district, subject to subsequent disposition under Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, or [~~Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts~~] Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts.

Section 2. Section **10-2-401** is amended to read:

10-2-401. Definitions -- Property owner provisions.

(1) As used in this part:

(a) "Affected entity" means:

(i) a county of the first or second class in whose unincorporated area the area proposed

for annexation is located;

(ii) a county of the third, fourth, fifth, or sixth class in whose unincorporated area the area proposed for annexation is located, if the area includes residents or commercial or industrial development;

(iii) a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, whose boundary includes any part of an area proposed for annexation;

(iv) a school district whose boundary includes any part of an area proposed for annexation, if the boundary is proposed to be adjusted as a result of the annexation; and

(v) a municipality whose boundaries are within 1/2 mile of an area proposed for annexation.

(b) "Annexation petition" means a petition under Section 10-2-403 proposing the annexation to a municipality of a contiguous, unincorporated area that is contiguous to the municipality.

(c) "Commission" means a boundary commission established under Section 10-2-409 for the county in which the property that is proposed for annexation is located.

(d) "Expansion area" means the unincorporated area that is identified in an annexation policy plan under Section 10-2-401.5 as the area that the municipality anticipates annexing in the future.

(e) "Feasibility consultant" means a person or firm with expertise in the processes and economics of local government.

(f) "Mining protection area" means the same as that term is defined in Section 17-41-101.

(g) "Municipal selection committee" means a committee in each county composed of the mayor of each municipality within that county.

(h) "Planning advisory area" means the same as that term is defined in Section 17-27a-306.

(i) "Private," with respect to real property, means not owned by the United States or any agency of the federal government, the state, a county, a municipality, a school district, a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local~~

~~Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, a special service district under Title 17D, Chapter 1, Special Service District Act, or any other political subdivision or governmental entity of the state.

(j) "Rural real property" means the same as that term is defined in Section 17B-2a-1107.

(k) "Specified county" means a county of the second, third, fourth, fifth, or sixth class.

(l) "Unincorporated peninsula" means an unincorporated area:

(i) that is part of a larger unincorporated area;

(ii) that extends from the rest of the unincorporated area of which it is a part;

(iii) that is surrounded by land that is within a municipality, except where the area connects to and extends from the rest of the unincorporated area of which it is a part; and

(iv) whose width, at any point where a straight line may be drawn from a place where it borders a municipality to another place where it borders a municipality, is no more than 25% of the boundary of the area where it borders a municipality.

(m) "Urban development" means:

(i) a housing development with more than 15 residential units and an average density greater than one residential unit per acre; or

(ii) a commercial or industrial development for which cost projections exceed $750,000 for all phases.

(2) For purposes of this part:

(a) the owner of real property shall be:

(i) except as provided in Subsection (2)(a)(ii), the record title owner according to the records of the county recorder on the date of the filing of the petition or protest; or

(ii) the lessee of military land, as defined in Section 63H-1-102, if the area proposed for annexation includes military land that is within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act; and

(b) the value of private real property shall be determined according to the last assessment roll for county taxes before the filing of the petition or protest.

(3) For purposes of each provision of this part that requires the owners of private real property covering a percentage or majority of the total private land area within an area to sign a

petition or protest:

(a) a parcel of real property may not be included in the calculation of the required percentage or majority unless the petition or protest is signed by:

(i) except as provided in Subsection (3)(a)(ii), owners representing a majority ownership interest in that parcel; or

(ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel;

(b) the signature of a person signing a petition or protest in a representative capacity on behalf of an owner is invalid unless:

(i) the person's representative capacity and the name of the owner the person represents are indicated on the petition or protest with the person's signature; and

(ii) the person provides documentation accompanying the petition or protest that substantiates the person's representative capacity; and

(c) subject to Subsection (3)(b), a duly appointed personal representative may sign a petition or protest on behalf of a deceased owner.

Section 3. Section **10-2-403** is amended to read:

10-2-403. Annexation petition -- Requirements -- Notice required before filing.

(1) Except as provided in Section 10-2-418, the process to annex an unincorporated area to a municipality is initiated by a petition as provided in this section.

(2) (a) (i) Before filing a petition under Subsection (1), the person or persons intending to file a petition shall:

(A) file with the city recorder or town clerk of the proposed annexing municipality a notice of intent to file a petition; and

(B) send a copy of the notice of intent to each affected entity.

(ii) Each notice of intent under Subsection (2)(a)(i) shall include an accurate map of the area that is proposed to be annexed.

(b) (i) Subject to Subsection (2)(b)(ii), the county in which the area proposed to be annexed is located shall:

(A) mail the notice described in Subsection (2)(b)(iii) to:

(I) each owner of real property located within the area proposed to be annexed; and

(II) each owner of real property located within 300 feet of the area proposed to be

annexed; and

(B) send to the proposed annexing municipality a copy of the notice and a certificate indicating that the notice has been mailed as required under Subsection (2)(b)(i)(A).

(ii) The county shall mail the notice required under Subsection (2)(b)(i)(A) within 20 days after receiving from the person or persons who filed the notice of intent:

(A) a written request to mail the required notice; and

(B) payment of an amount equal to the county's expected actual cost of mailing the notice.

(iii) Each notice required under Subsection (2)(b)(i)(A) shall:

(A) be in writing;

(B) state, in bold and conspicuous terms, substantially the following:

"Attention: Your property may be affected by a proposed annexation.

Records show that you own property within an area that is intended to be included in a proposed annexation to (state the name of the proposed annexing municipality) or that is within 300 feet of that area. If your property is within the area proposed for annexation, you may be asked to sign a petition supporting the annexation. You may choose whether to sign the petition. By signing the petition, you indicate your support of the proposed annexation. If you sign the petition but later change your mind about supporting the annexation, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality) within 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.

There will be no public election on the proposed annexation because Utah law does not provide for an annexation to be approved by voters at a public election. Signing or not signing the annexation petition is the method under Utah law for the owners of property within the area proposed for annexation to demonstrate their support of or opposition to the proposed annexation.

You may obtain more information on the proposed annexation by contacting (state the name, mailing address, telephone number, and email address of the official or employee of the proposed annexing municipality designated to respond to questions about the proposed annexation), (state the name, mailing address, telephone number, and email address of the county official or employee designated to respond to questions about the proposed annexation),

or (state the name, mailing address, telephone number, and email address of the person who filed the notice of intent under Subsection (2)(a)(i)(A), or, if more than one person filed the notice of intent, one of those persons). Once filed, the annexation petition will be available for inspection and copying at the office of (state the name of the proposed annexing municipality) located at (state the address of the municipal offices of the proposed annexing municipality)."; and

(C) be accompanied by an accurate map identifying the area proposed for annexation.

(iv) A county may not mail with the notice required under Subsection (2)(b)(i)(A) any other information or materials related or unrelated to the proposed annexation.

(c) (i) After receiving the certificate from the county as provided in Subsection (2)(b)(i)(B), the proposed annexing municipality shall, upon request from the person or persons who filed the notice of intent under Subsection (2)(a)(i)(A), provide an annexation petition for the annexation proposed in the notice of intent.

(ii) An annexation petition provided by the proposed annexing municipality may be duplicated for circulation for signatures.

(3) Each petition under Subsection (1) shall:

(a) be filed with the applicable city recorder or town clerk of the proposed annexing municipality;

(b) contain the signatures of, if all the real property within the area proposed for annexation is owned by a public entity other than the federal government, the owners of all the publicly owned real property, or the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii) (A) subject to Subsection (3)(b)(ii)(C), covers a majority of the private land area within the area proposed for annexation;

(B) covers 100% of rural real property within the area proposed for annexation; and

(C) covers 100% of the private land area within the area proposed for annexation, if the area is within an agriculture protection area created under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas, or a migratory bird production area created under Title 23, Chapter 28, Migratory Bird Production Area; and

(iii) is equal in value to at least 1/3 of the value of all private real property within the area proposed for annexation;

(c) be accompanied by:

(i) an accurate and recordable map, prepared by a licensed surveyor in accordance with Section 17-23-20, of the area proposed for annexation; and

(ii) a copy of the notice sent to affected entities as required under Subsection (2)(a)(i)(B) and a list of the affected entities to which notice was sent;

(d) contain on each signature page a notice in bold and conspicuous terms that states substantially the following:

"Notice:

• There will be no public election on the annexation proposed by this petition because Utah law does not provide for an annexation to be approved by voters at a public election.

• If you sign this petition and later decide that you do not support the petition, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality). If you choose to withdraw your signature, you shall do so no later than 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.";

(e) if the petition proposes a cross-county annexation, as defined in Section 10-2-402.5, be accompanied by a copy of the resolution described in Subsection 10-2-402.5(4)(a)(iii)(A); and

(f) designate up to five of the signers of the petition as sponsors, one of whom shall be designated as the contact sponsor, and indicate the mailing address of each sponsor.

(4) A petition under Subsection (1) may not propose the annexation of all or part of an area proposed for annexation to a municipality in a previously filed petition that has not been denied, rejected, or granted.

(5) If practicable and feasible, the boundaries of an area proposed for annexation shall be drawn:

(a) along the boundaries of existing [~~local~~] special districts and special service districts for sewer, water, and other services, along the boundaries of school districts whose boundaries follow city boundaries or school districts adjacent to school districts whose boundaries follow city boundaries, and along the boundaries of other taxing entities;

(b) to eliminate islands and peninsulas of territory that is not receiving municipal-type services;

(c) to facilitate the consolidation of overlapping functions of local government;

(d) to promote the efficient delivery of services; and

(e) to encourage the equitable distribution of community resources and obligations.

(6) On the date of filing, the petition sponsors shall deliver or mail a copy of the petition to the clerk of the county in which the area proposed for annexation is located.

(7) A property owner who signs an annexation petition may withdraw the owner's signature by filing a written withdrawal, signed by the property owner, with the city recorder or town clerk no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i).

Section 4. Section **10-2-406** is amended to read:

10-2-406. Notice of certification -- Providing notice of petition.

(1) After receipt of the notice of certification from the city recorder or town clerk under Subsection 10-2-405(2)(c)(i), the municipal legislative body shall provide notice:

(a) within the area proposed for annexation and the unincorporated area within 1/2 mile of the area proposed for annexation, no later than 10 days after the day on which the municipal legislative body receives the notice of certification:

(i) by posting one notice, and at least one additional notice per 2,000 population within the combined area, in places within the combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area, subject to a maximum of 10 notices; or

(ii) by mailing the notice to each residence within, and to each owner of real property located within, the combined area;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks, beginning no later than 10 days after the day on which the municipal legislative body receives the notice of certification;

(c) within 20 days after the day on which the municipal legislative body receives the notice of certification, by mailing written notice to each affected entity; and

(d) if the municipality has a website, by posting notice on the municipality's website for the period of time described in Subsection (1)(b).

(2) The notice described in Subsection (1) shall:

(a) state that a petition has been filed with the municipality proposing the annexation of

an area to the municipality;

(b) state the date of the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i);

(c) describe the area proposed for annexation in the annexation petition;

(d) state that the complete annexation petition is available for inspection and copying at the office of the city recorder or town clerk;

(e) state in conspicuous and plain terms that the municipality may grant the petition and annex the area described in the petition unless, within the time required under Subsection 10-2-407(2)(a)(i), a written protest to the annexation petition is filed with the commission and a copy of the protest delivered to the city recorder or town clerk of the proposed annexing municipality;

(f) state the address of the commission or, if a commission has not yet been created in the county, the county clerk, where a protest to the annexation petition may be filed;

(g) state that the area proposed for annexation to the municipality will also automatically be annexed to a [~~local~~] special district providing fire protection, paramedic, and emergency services or a [~~local~~] special district providing law enforcement service, as the case may be, as provided in Section 17B-1-416, if:

(i) the proposed annexing municipality is entirely within the boundaries of a [~~local~~] special district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the area proposed to be annexed to the municipality is not already within the boundaries of the [~~local~~] special district; and

(h) state that the area proposed for annexation to the municipality will be automatically withdrawn from a [~~local~~] special district providing fire protection, paramedic, and emergency services or a [~~local~~] special district providing law enforcement service, as the case may be, as provided in Subsection 17B-1-502(2), if:

(i) the petition proposes the annexation of an area that is within the boundaries of a [~~local~~] special district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the proposed annexing municipality is not within the boundaries of the [~~local~~] special district.

(3) (a) The statement required by Subsection (2)(e) shall state the deadline for filing a written protest in terms of the actual date rather than by reference to the statutory citation.

(b) In addition to the requirements under Subsection (2), a notice under Subsection (1) for a proposed annexation of an area within a county of the first class shall include a statement that a protest to the annexation petition may be filed with the commission by property owners if it contains the signatures of the owners of private real property that:

(i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;

(ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and

(iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation.

Section 5. Section **10-2-412** is amended to read:

10-2-412. Boundary commission authority -- Expenses -- Records.

(1) The boundary commission for each county shall hear and decide, according to the provisions of this part, each protest filed under Section 10-2-407, with respect to an area that is located within that county.

(2) A boundary commission may:

(a) adopt and enforce rules of procedure for the orderly and fair conduct of its proceedings;

(b) authorize a member of the commission to administer oaths if necessary in the performance of the commission's duties;

(c) employ staff personnel and professional or consulting services reasonably necessary to enable the commission to carry out its duties; and

(d) incur reasonable and necessary expenses to enable the commission to carry out its

duties.

(3) The legislative body of each county shall, with respect to the boundary commission in that county:

(a) furnish the commission necessary quarters, equipment, and supplies;

(b) pay necessary operating expenses incurred by the commission; and

(c) reimburse the reasonable and necessary expenses incurred by each member appointed under Subsection 10-2-409(2)(a)(iii) or (b)(iii), unless otherwise provided by interlocal agreement.

(4) Each county or municipal legislative body shall reimburse the reasonable and necessary expenses incurred by a commission member who is an elected county or municipal officer, respectively.

(5) Records, information, and other relevant materials necessary to enable the commission to carry out its duties shall, upon request by the commission, be furnished to the boundary commission by the personnel, employees, and officers of:

(a) for a proposed annexation of an area located in a county of the first class:

(i) each county, [~~local~~] special district, and special service district whose boundaries include an area that is the subject of a protest under the commission's consideration; and

(ii) each municipality whose boundaries may be affected by action of the boundary commission; or

(b) for a proposed annexation of an area located in a specified county, each affected entity:

(i) whose boundaries include any part of the area proposed for annexation; or

(ii) that may be affected by action of the boundary commission.

Section 6. Section **10-2-413** is amended to read:

10-2-413. Feasibility consultant -- Feasibility study -- Modifications to feasibility study.

(1) (a) For a proposed annexation of an area located in a county of the first class, unless a proposed annexing municipality denies an annexation petition under Subsection 10-2-407(5)(a)(i) and except as provided in Subsection (1)(b), the commission shall choose and engage a feasibility consultant within 45 days of:

(i) the commission's receipt of a protest under Section 10-2-407, if the commission had

been created before the filing of the protest; or

(ii) the commission's creation, if the commission is created after the filing of a protest.

(b) Notwithstanding Subsection (1)(a), the commission may not require a feasibility study with respect to a petition that proposes the annexation of an area that:

(i) is undeveloped; and

(ii) covers an area that is equivalent to less than 5% of the total land mass of all private real property within the municipality.

(2) The commission shall require the feasibility consultant to:

(a) complete a feasibility study on the proposed annexation and submit written results of the study to the commission no later than 75 days after the feasibility consultant is engaged to conduct the study;

(b) submit with the full written results of the feasibility study a summary of the results no longer than a page in length; and

(c) attend the public hearing under Subsection 10-2-415(1) and present the feasibility study results and respond to questions at that hearing.

(3) (a) Subject to Subsection (4), the feasibility study shall consider:

(i) the population and population density within the area proposed for annexation, the surrounding unincorporated area, and, if a protest was filed by a municipality with boundaries within 1/2 mile of the area proposed for annexation, that municipality;

(ii) the geography, geology, and topography of and natural boundaries within the area proposed for annexation, the surrounding unincorporated area, and, if a protest was filed by a municipality with boundaries within 1/2 mile of the area proposed for annexation, that municipality;

(iii) whether the proposed annexation eliminates, leaves, or creates an unincorporated island or unincorporated peninsula;

(iv) whether the proposed annexation will hinder or prevent a future and more logical and beneficial annexation or a future logical and beneficial incorporation;

(v) the fiscal impact of the proposed annexation on the remaining unincorporated area, other municipalities, [~~local~~] special districts, special service districts, school districts, and other governmental entities;

(vi) current and five-year projections of demographics and economic base in the area

proposed for annexation and surrounding unincorporated area, including household size and income, commercial and industrial development, and public facilities;

(vii) projected growth in the area proposed for annexation and the surrounding unincorporated area during the next five years;

(viii) the present and five-year projections of the cost of governmental services in the area proposed for annexation;

(ix) the present and five-year projected revenue to the proposed annexing municipality from the area proposed for annexation;

(x) the projected impact the annexation will have over the following five years on the amount of taxes that property owners within the area proposed for annexation, the proposed annexing municipality, and the remaining unincorporated county will pay;

(xi) past expansion in terms of population and construction in the area proposed for annexation and the surrounding unincorporated area;

(xii) the extension during the past 10 years of the boundaries of each other municipality near the area proposed for annexation, the willingness of the other municipality to annex the area proposed for annexation, and the probability that another municipality would annex some or all of the area proposed for annexation during the next five years if the annexation did not occur;

(xiii) the history, culture, and social aspects of the area proposed for annexation and surrounding area;

(xiv) the method of providing and the entity that has provided municipal-type services in the past to the area proposed for incorporation and the feasibility of municipal-type services being provided by the proposed annexing municipality; and

(xv) the effect on each school district whose boundaries include part or all of the area proposed for annexation or the proposed annexing municipality.

(b) For purposes of Subsection (3)(a)(ix), the feasibility consultant shall assume ad valorem property tax rates on residential property within the area proposed for annexation at the same level that residential property within the proposed annexing municipality would be without the annexation.

(c) For purposes of Subsection (3)(a)(viii), the feasibility consultant shall assume that the level and quality of governmental services that will be provided to the area proposed for

annexation in the future is essentially comparable to the level and quality of governmental services being provided within the proposed annexing municipality at the time of the feasibility study.

(4) (a) Except as provided in Subsection (4)(b), the commission may modify the depth of study of and detail given to the items listed in Subsection (3)(a) by the feasibility consultant in conducting the feasibility study depending upon:

(i) the size of the area proposed for annexation;

(ii) the size of the proposed annexing municipality;

(iii) the extent to which the area proposed for annexation is developed;

(iv) the degree to which the area proposed for annexation is expected to develop and the type of development expected; and

(v) the number and type of protests filed against the proposed annexation.

(b) Notwithstanding Subsection (4)(a), the commission may not modify the requirement that the feasibility consultant provide a full and complete analysis of the items listed in Subsections (3)(a)(viii), (ix), and (xv).

(5) If the results of the feasibility study do not meet the requirements of Subsection 10-2-416(3), the feasibility consultant may, as part of the feasibility study, make recommendations as to how the boundaries of the area proposed for annexation may be altered so that the requirements of Subsection 10-2-416(3) may be met.

(6) (a) Except as provided in Subsection (6)(b), the feasibility consultant fees and expenses shall be shared equally by the proposed annexing municipality and each entity or group under Subsection 10-2-407(1) that files a protest.

(b) (i) Except as provided in Subsection (6)(b)(ii), if a protest is filed by property owners under Subsection 10-2-407(1)(c), the county in which the area proposed for annexation shall pay the owners' share of the feasibility consultant's fees and expenses.

(ii) Notwithstanding Subsection (6)(b)(i), if both the county and the property owners file a protest, the county and the proposed annexing municipality shall equally share the property owners' share of the feasibility consultant's fees and expenses.

Section 7. Section **10-2-414** is amended to read:

10-2-414. Modified annexation petition -- Supplemental feasibility study.

(1) (a) (i) If the results of the feasibility study with respect to a proposed annexation of

an area located in a county of the first class do not meet the requirements of Subsection 10-2-416(3), the sponsors of the annexation petition may, within 45 days of the feasibility consultant's submission of the results of the study, file with the city recorder or town clerk of the proposed annexing municipality a modified annexation petition altering the boundaries of the proposed annexation.

(ii) On the date of filing a modified annexation petition under Subsection (1)(a)(i), the sponsors of the annexation petition shall deliver or mail a copy of the modified annexation petition to the clerk of the county in which the area proposed for annexation is located.

(b) Each modified annexation petition under Subsection (1)(a) shall comply with the requirements of Subsections 10-2-403(3) and (4).

(2) (a) Within 20 days of the city recorder or town clerk's receipt of the modified annexation petition, the city recorder or town clerk, as the case may be, shall follow the same procedure for the modified annexation petition as provided under Subsections 10-2-405(2) and (3)(a) for an original annexation petition.

(b) If the city recorder or town clerk certifies the modified annexation petition under Subsection 10-2-405(2)(c)(i), the city recorder or town clerk, as the case may be, shall send written notice of the certification to:

(i) the commission;

(ii) each entity that filed a protest to the annexation petition; and

(iii) if a protest was filed under Subsection 10-2-407(1)(c), the contact person.

(c) (i) If the modified annexation petition proposes the annexation of an area that includes part or all of a [~~local~~] special district, special service district, or school district that was not included in the area proposed for annexation in the original petition, the city recorder or town clerk, as the case may be, shall also send notice of the certification of the modified annexation petition to the board of the [~~local~~] special district, special service district, or school district.

(ii) If the area proposed for annexation in the modified annexation petition is within 1/2 mile of the boundaries of a municipality whose boundaries were not within 1/2 mile of the area proposed for annexation in the original annexation petition, the city recorder or town clerk, as the case may be, shall also send notice of the certification of the modified annexation petition to the legislative body of that municipality.

(3) Within 10 days of the commission's receipt of the notice under Subsection (2)(b), the commission shall engage the feasibility consultant that conducted the feasibility study to supplement the feasibility study to take into account the information in the modified annexation petition that was not included in the original annexation petition.

(4) The commission shall require the feasibility consultant to complete the supplemental feasibility study and to submit written results of the supplemental study to the commission no later than 30 days after the feasibility consultant is engaged to conduct the supplemental feasibility study.

Section 8. Section **10-2-418** is amended to read:

10-2-418. Annexation of an island or peninsula without a petition -- Notice -- Hearing.

(1) As used in Subsection (2)(b)(ii), for purposes of an annexation conducted in accordance with this section of an area located within a county of the first class, "municipal-type services" does not include a service provided by a municipality pursuant to a contract that the municipality has with another political subdivision as "political subdivision" is defined in Section 17B-1-102.

(2) Notwithstanding Subsection 10-2-402(2), a municipality may annex an unincorporated area under this section without an annexation petition if:

(a) for an unincorporated area within the expansion area of more than one municipality, each municipality agrees to the annexation; and

(b) (i) (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality;

(B) the majority of each island or peninsula consists of residential or commercial development;

(C) the area proposed for annexation requires the delivery of municipal-type services; and

(D) the municipality has provided most or all of the municipal-type services to the area for more than one year;

(ii) (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality, each of which has fewer than 800 residents; and

(B) the municipality has provided one or more municipal-type services to the area for at least one year;

(iii) the area consists of:

(A) an unincorporated island within or an unincorporated peninsula contiguous to the municipality; and

(B) for an area outside of the county of the first class proposed for annexation, no more than 50 acres; or

(iv) (A) the area to be annexed consists only of one or more unincorporated islands in a county of the second class;

(B) the area to be annexed is located in the expansion area of a municipality; and

(C) the county legislative body in which the municipality is located provides notice to each property owner within the area to be annexed that the county legislative body will hold a public hearing, no less than 15 days after the day on which the county legislative body provides the notice, and may make a recommendation of annexation to the municipality whose expansion area includes the area to be annexed after the public hearing.

(3) Notwithstanding Subsection 10-2-402(1)(b)(iii), a municipality may annex a portion of an unincorporated island or unincorporated peninsula under this section, leaving unincorporated the remainder of the unincorporated island or unincorporated peninsula, if:

(a) in adopting the resolution under Subsection (5)(a) the municipal legislative body determines that not annexing the entire unincorporated island or unincorporated peninsula is in the municipality's best interest; and

(b) for an annexation of one or more unincorporated islands under Subsection (2)(b), the entire island of unincorporated area, of which a portion is being annexed, complies with the requirement of Subsection (2)(b)(ii) relating to the number of residents.

(4) (a) This Subsection (4) applies only to an annexation within a county of the first class.

(b) A county of the first class shall agree to an annexation if the majority of private property owners within the area to be annexed give written consent to the annexation, in accordance with Subsection (4)(d), to the recorder of the annexing municipality.

(c) For purposes of Subsection (4)(b), the majority of private property owners is property owners who own:

(i) the majority of the total private land area within the area proposed for annexation; and

(ii) private real property equal to at least 1/2 the value of private real property within the area proposed for annexation.

(d) A property owner consenting to annexation shall indicate the property owner's consent on a form which includes language in substantially the following form:

"Notice: If this written consent is used to proceed with an annexation of your property in accordance with Utah Code Section 10-2-418, no public election is required by law to approve the annexation. If you sign this consent and later decide you do not want to support the annexation of your property, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of [name of annexing municipality]. If you choose to withdraw your signature, you must do so no later than the close of the public hearing on the annexation conducted in accordance with Utah Code Subsection 10-2-418(4)(d).".

(e) A private property owner may withdraw the property owner's signature indicating consent by submitting a signed, written withdrawal with the recorder or clerk no later than the close of the public hearing held in accordance with Subsection (5)(b).

(5) The legislative body of each municipality intending to annex an area under this section shall:

(a) adopt a resolution indicating the municipal legislative body's intent to annex the area, describing the area proposed to be annexed; and

(b) hold a public hearing on the proposed annexation no earlier than 30 days after the adoption of the resolution described in Subsection (5)(a).

(6) A legislative body described in Subsection (5) shall provide notice of a public hearing described in Subsection (5)(b):

(a) (i) at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population in the municipality and the area proposed for annexation, in places within the combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area, subject to a maximum of 10 notices; or

(ii) at least three weeks before the day of the public hearing, by mailing notice to each residence within, and each owner of real property located within, the combined area described

in Subsection (6)(a)(i);

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks before the day of the public hearing;

(c) by sending written notice to:

(i) the board of each [~~local~~] special district and special service district whose boundaries contain some or all of the area proposed for annexation; and

(ii) the legislative body of the county in which the area proposed for annexation is located; and

(d) if the municipality has a website, by posting notice on the municipality's website for three weeks before the day of the public hearing.

(7) The legislative body of the annexing municipality shall ensure that:

(a) each notice described in Subsection (6):

(i) states that the municipal legislative body has adopted a resolution indicating the municipality's intent to annex the area proposed for annexation;

(ii) states the date, time, and place of the public hearing described in Subsection (5)(b);

(iii) describes the area proposed for annexation; and

(iv) except for an annexation that meets the requirements of Subsection (8)(b) or (c), states in conspicuous and plain terms that the municipal legislative body will annex the area unless, at or before the public hearing described in Subsection (5)(b), written protests to the annexation are filed by the owners of private real property that:

(A) is located within the area proposed for annexation;

(B) covers a majority of the total private land area within the entire area proposed for annexation; and

(C) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation; and

(b) the first publication of the notice described in Subsection (6)(a) occurs within 14 days after the day on which the municipal legislative body adopts a resolution under Subsection (5)(a).

(8) (a) Except as provided in Subsections (8)(b)(i) and (8)(c)(i), upon conclusion of the public hearing described in Subsection (5)(b), the municipal legislative body may adopt an ordinance approving the annexation of the area proposed for annexation under this section

unless, at or before the hearing, written protests to the annexation have been filed with the recorder or clerk of the municipality by the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii) covers a majority of the total private land area within the entire area proposed for annexation; and

(iii) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation.

(b) (i) Notwithstanding Subsection (8)(a), upon conclusion of the public hearing described in Subsection (5)(b), a municipality may adopt an ordinance approving the annexation of the area proposed for annexation under this section without allowing or considering protests under Subsection (8)(a) if the owners of at least 75% of the total private land area within the entire area proposed for annexation, representing at least 75% of the value of the private real property within the entire area proposed for annexation, have consented in writing to the annexation.

(ii) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection (8)(b)(i), the area annexed is conclusively presumed to be validly annexed.

(c) (i) Notwithstanding Subsection (8)(a), upon conclusion of the public hearing described in Subsection (5)(b), a municipality may adopt an ordinance approving the annexation of an area that the county legislative body proposes for annexation under this section without allowing or considering protests under Subsection (8)(a) if the county legislative body has formally recommended annexation to the annexing municipality and has made a formal finding that:

(A) the area to be annexed can be more efficiently served by the municipality than by the county;

(B) the area to be annexed is not likely to be naturally annexed by the municipality in the future as the result of urban development;

(C) annexation of the area is likely to facilitate the consolidation of overlapping functions of local government; and

(D) annexation of the area is likely to result in an equitable distribution of community resources and obligations.

(ii) The county legislative body may base the finding required in Subsection (8)(c)(i)(B) on:

(A) existing development in the area;

(B) natural or other conditions that may limit the future development of the area; or

(C) other factors that the county legislative body considers relevant.

(iii) A county legislative body may make the recommendation for annexation required in Subsection (8)(c)(i) for only a portion of an unincorporated island if, as a result of information provided at the public hearing, the county legislative body makes a formal finding that it would be equitable to leave a portion of the island unincorporated.

(iv) If a county legislative body has made a recommendation of annexation under Subsection (8)(c)(i):

(A) the relevant municipality is not required to proceed with the recommended annexation; and

(B) if the relevant municipality proceeds with annexation, the municipality shall annex the entire area that the county legislative body recommended for annexation.

(v) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection (8)(c)(i), the area annexed is conclusively presumed to be validly annexed.

(9) (a) Except as provided in Subsections (8)(b)(i) and (8)(c)(i), if protests are timely filed under Subsection (8)(a), the municipal legislative body may not adopt an ordinance approving the annexation of the area proposed for annexation, and the annexation proceedings under this section shall be considered terminated.

(b) Subsection (9)(a) does not prohibit the municipal legislative body from excluding from a proposed annexation under Subsection (2)(b) the property within an unincorporated island regarding which protests have been filed and proceeding under Subsection (3) to annex some or all of the remaining portion of the unincorporated island.

Section 9. Section **10-2-419** is amended to read:

10-2-419. Boundary adjustment -- Notice and hearing -- Protest.

(1) The legislative bodies of two or more municipalities having common boundaries may adjust their common boundaries as provided in this section.

(2) The legislative body of each municipality intending to adjust a boundary that is

common with another municipality shall:

(a) adopt a resolution indicating the intent of the municipal legislative body to adjust a common boundary; and

(b) hold a public hearing on the proposed adjustment no less than 60 days after the adoption of the resolution under Subsection (2)(a).

(3) A legislative body described in Subsection (2) shall provide notice of a public hearing described in Subsection (2)(b):

(a) (i) at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to residents of the municipality, subject to a maximum of 10 notices; or

(ii) at least three weeks before the day of the public hearing, by mailing notice to each residence in the municipality;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks before the day of the public hearing;

(c) if the proposed boundary adjustment may cause any part of real property owned by the state to be within the geographic boundary of a different local governmental entity than before the adjustment, by providing written notice, at least 50 days before the day of the public hearing, to:

(i) the title holder of any state-owned real property described in this Subsection (3)(d); and

(ii) the Utah State Developmental Center Board, created under Section 62A-5-202.5, if any state-owned real property described in this Subsection (3)(d) is associated with the Utah State Developmental Center; and

(d) if the municipality has a website, by posting notice on the municipality's website for three weeks before the day of the public hearing.

(4) The notice described in Subsection (3) shall:

(a) state that the municipal legislative body has adopted a resolution indicating the municipal legislative body's intent to adjust a boundary that the municipality has in common with another municipality;

(b) describe the area proposed to be adjusted;

(c) state the date, time, and place of the public hearing described in Subsection (2)(b);

(d) state in conspicuous and plain terms that the municipal legislative body will adjust the boundaries unless, at or before the public hearing described in Subsection (2)(b), a written protest to the adjustment is filed by:

(i) an owner of private real property that:

(A) is located within the area proposed for adjustment;

(B) covers at least 25% of the total private land area within the area proposed for adjustment; and

(C) is equal in value to at least 15% of the value of all private real property within the area proposed for adjustment; or

(ii) a title holder of state-owned real property described in Subsection (3)(d);

(e) state that the area that is the subject of the boundary adjustment will, because of the boundary adjustment, be automatically annexed to a [~~local~~] special district providing fire protection, paramedic, and emergency services or a [~~local~~] special district providing law enforcement service, as the case may be, as provided in Section 17B-1-416, if:

(i) the municipality to which the area is being added because of the boundary adjustment is entirely within the boundaries of a [~~local~~] special district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the municipality from which the area is being taken because of the boundary adjustment is not within the boundaries of the [~~local~~] special district; and

(f) state that the area proposed for annexation to the municipality will be automatically withdrawn from a [~~local~~] special district providing fire protection, paramedic, and emergency services, as provided in Subsection 17B-1-502(2), if:

(i) the municipality to which the area is being added because of the boundary adjustment is not within the boundaries of a [~~local~~] special district:

(A) that provides fire protection, paramedic, and emergency services; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the municipality from which the area is being taken because of the boundary adjustment is entirely within the boundaries of the [~~local~~] special district.

(5) Upon conclusion of the public hearing described in Subsection (2)(b), the municipal legislative body may adopt an ordinance approving the adjustment of the common boundary unless, at or before the hearing described in Subsection (2)(b), a written protest to the adjustment is filed with the city recorder or town clerk by a person described in Subsection (3)(c)(i) or (ii).

(6) The municipal legislative body shall comply with the requirements of Section 10-2-425 as if the boundary adjustment were an annexation.

(7) (a) An ordinance adopted under Subsection (5) becomes effective when each municipality involved in the boundary adjustment has adopted an ordinance under Subsection (5).

(b) The effective date of a boundary adjustment under this section is governed by Section 10-2-425.

Section 10. Section **10-2-425** is amended to read:

10-2-425. Filing of notice and plat -- Recording and notice requirements -- Effective date of annexation or boundary adjustment.

(1) The legislative body of each municipality that enacts an ordinance under this part approving the annexation of an unincorporated area or the adjustment of a boundary, or the legislative body of an eligible city, as defined in Section 10-2a-403, that annexes an unincorporated island upon the results of an election held in accordance with Section 10-2a-404, shall:,

(a) within 60 days after enacting the ordinance or the day of the election or, in the case of a boundary adjustment, within 60 days after each of the municipalities involved in the boundary adjustment has enacted an ordinance, file with the lieutenant governor:

(i) a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5;

(b) upon the lieutenant governor's issuance of a certificate of annexation or boundary adjustment, as the case may be, under Section 67-1a-6.5:

(i) if the annexed area or area subject to the boundary adjustment is located within the

boundary of a single county, submit to the recorder of that county the original notice of an impending boundary action, the original certificate of annexation or boundary adjustment, the original approved final local entity plat, and a certified copy of the ordinance approving the annexation or boundary adjustment; or

(ii) if the annexed area or area subject to the boundary adjustment is located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties the original notice of impending boundary action, the original certificate of annexation or boundary adjustment, and the original approved final local entity plat;

(B) submit to the recorder of each other county a certified copy of the documents listed in Subsection (1)(b)(ii)(A); and

(C) submit a certified copy of the ordinance approving the annexation or boundary adjustment to each county described in Subsections (1)(b)(ii)(A) and (B); and

(c) concurrently with Subsection (1)(b):

(i) send notice of the annexation or boundary adjustment to each affected entity; and

(ii) in accordance with Section 26-8a-414, file with the Department of Health:

(A) a certified copy of the ordinance approving the annexation of an unincorporated area or the adjustment of a boundary; and

(B) a copy of the approved final local entity plat.

(2) If an annexation or boundary adjustment under this part or Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, also causes an automatic annexation to a [~~local~~] special district under Section 17B-1-416 or an automatic withdrawal from a [~~local~~] special district under Subsection 17B-1-502(2), the municipal legislative body shall, as soon as practicable after the lieutenant governor issues a certificate of annexation or boundary adjustment under Section 67-1a-6.5, send notice of the annexation or boundary adjustment to the [~~local~~] special district to which the annexed area is automatically annexed or from which the annexed area is automatically withdrawn.

(3) Each notice required under Subsection (1) relating to an annexation or boundary adjustment shall state the effective date of the annexation or boundary adjustment, as determined under Subsection (4).

(4) An annexation or boundary adjustment under this part is completed and takes effect:

(a) for the annexation of or boundary adjustment affecting an area located in a county of the first class, except for an annexation under Section 10-2-418:

(i) July 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:

(A) the certificate is issued during the preceding November 1 through April 30; and

(B) the requirements of Subsection (1) are met before that July 1; or

(ii) January 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:

(A) the certificate is issued during the preceding May 1 through October 31; and

(B) the requirements of Subsection (1) are met before that January 1; and

(b) subject to Subsection (5), for all other annexations and boundary adjustments, the date of the lieutenant governor's issuance, under Section 67-1a-6.5, of a certificate of annexation or boundary adjustment.

(5) If an annexation of an unincorporated island is based upon the results of an election held in accordance with Section 10-2a-404:

(a) the county and the annexing municipality may agree to a date on which the annexation is complete and takes effect; and

(b) the lieutenant governor shall issue, under Section 67-1a-6.5, a certification of annexation on the date agreed to under Subsection (5)(a).

(6) (a) As used in this Subsection (6):

(i) "Affected area" means:

(A) in the case of an annexation, the annexed area; and

(B) in the case of a boundary adjustment, any area that, as a result of the boundary adjustment, is moved from within the boundary of one municipality to within the boundary of another municipality.

(ii) "Annexing municipality" means:

(A) in the case of an annexation, the municipality that annexes an unincorporated area; and

(B) in the case of a boundary adjustment, a municipality whose boundary includes an

affected area as a result of a boundary adjustment.

(b) The effective date of an annexation or boundary adjustment for purposes of assessing property within an affected area is governed by Section 59-2-305.5.

(c) Until the documents listed in Subsection (1)(b)(i) are recorded in the office of the recorder of each county in which the property is located, a municipality may not:

(i) levy or collect a property tax on property within an affected area;

(ii) levy or collect an assessment on property within an affected area; or

(iii) charge or collect a fee for service provided to property within an affected area, unless the municipality was charging and collecting the fee within that area immediately before annexation.

Section 11. Section **10-2-428** is amended to read:

10-2-428. Neither annexation nor boundary adjustment has an effect on the boundaries of most special districts or special service districts.

Except as provided in Section 17B-1-416 and Subsection 17B-1-502(2), the annexation of an unincorporated area by a municipality or the adjustment of a boundary shared by municipalities does not affect the boundaries of a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts, { }~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, ~~{ }~~ or a special service district under Title 17D, Chapter 1, Special Service District Act.

Section 12. Section **10-2a-205** is amended to read:

10-2a-205. Feasibility study -- Feasibility study consultant -- Qualifications for proceeding with incorporation.

(1) Within 90 days after the day on which the lieutenant governor receives a request that the lieutenant governor certifies under Subsection 10-2a-204(1)(b)(i), the lieutenant governor shall engage a feasibility consultant selected, in accordance with Subsection (2), to conduct a feasibility study.

(2) (a) The lieutenant governor shall select a feasibility consultant in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

(b) The lieutenant governor shall ensure that a feasibility consultant selected under Subsection (2)(a):

(i) has expertise in the processes and economics of local government; and

(ii) is not affiliated with:

(A) a sponsor of the feasibility study request to which the feasibility study relates; or

(B) the county in which the proposed municipality is located.

(3) The lieutenant governor shall require the feasibility consultant to:

(a) submit a draft of the feasibility study to each applicable person with whom the feasibility consultant is required to consult under Subsection (4)(c) within 90 days after the day on which the lieutenant governor engages the feasibility consultant to conduct the study;

(b) allow each person to whom the consultant provides a draft under Subsection (3)(a) to review and provide comment on the draft;

(c) submit a completed feasibility study, including a one-page summary of the results, to the following within 120 days after the day on which the lieutenant governor engages the feasibility consultant to conduct the study:

(i) the lieutenant governor;

(ii) the county legislative body of the county in which the incorporation is proposed;

(iii) the contact sponsor; and

(iv) each person to whom the consultant provided a draft under Subsection (3)(a); and

(d) attend the public hearings described in Section 10-2a-207 to present the feasibility study results and respond to questions from the public.

(4) (a) The feasibility consultant shall ensure that the feasibility study includes:

(i) an analysis of the population and population density within the area proposed for incorporation and the surrounding area;

(ii) the current and projected five-year demographics and tax base within the boundaries of the proposed municipality and surrounding area, including household size and income, commercial and industrial development, and public facilities;

(iii) subject to Subsection (4)(b), the current and five-year projected cost of providing municipal services to the proposed municipality, including administrative costs;

(iv) assuming the same tax categories and tax rates as currently imposed by the county and all other current service providers, the present and five-year projected revenue for the proposed municipality;

(v) an analysis of the risks and opportunities that might affect the actual costs described in Subsection (4)(a)(iii) or revenues described in Subsection (4)(a)(iv) of the newly

incorporated municipality;

(vi) an analysis of new revenue sources that may be available to the newly incorporated municipality that are not available before the area incorporates, including an analysis of the amount of revenues the municipality might obtain from those revenue sources;

(vii) the projected tax burden per household of any new taxes that may be levied within the proposed municipality within five years after incorporation;

(viii) the fiscal impact of the municipality's incorporation on unincorporated areas, other municipalities, [~~local~~] special districts, special service districts, and other governmental entities in the county; and

(ix) if the lieutenant governor excludes property from the proposed municipality under Section 10-2a-203, an update to the map and legal description described in Subsection 10-2a-202(1)(e).

(b) (i) For purposes of Subsection (4)(a)(iii), the feasibility consultant shall assume the proposed municipality will provide a level and quality of municipal services that fairly and reasonably approximate the level and quality of municipal services that are provided to the area of the proposed municipality at the time the feasibility consultant conducts the feasibility study.

(ii) In determining the present cost of a municipal service, the feasibility consultant shall consider:

(A) the amount it would cost the proposed municipality to provide the municipal service for the first five years after the municipality's incorporation; and

(B) the current municipal service provider's present and five-year projected cost of providing the municipal service.

(iii) In calculating costs under Subsection (4)(a)(iii), the feasibility consultant shall account for inflation and anticipated growth.

(c) In conducting the feasibility study, the feasibility consultant shall consult with the following before submitting a draft of the feasibility study under Subsection (3)(a):

(i) if the proposed municipality will include lands owned by the United States federal government, the entity within the United States federal government that has jurisdiction over the land;

(ii) if the proposed municipality will include lands owned by the state, the entity within state government that has jurisdiction over the land;

(iii) each entity that provides a municipal service to a portion of the proposed municipality; and

(iv) any other special service district that provides services to a portion of the proposed municipality.

(5) If the five-year projected revenues calculated under Subsection (4)(a)(iv) exceed the five-year projected costs calculated under Subsection (4)(a)(iii) by more than 5%, the feasibility consultant shall project and report the expected annual revenue surplus to the contact sponsor and the lieutenant governor.

(6) (a) Except as provided in Subsection (6)(b), if the results of the feasibility study, or a supplemental feasibility study described in Section 10-2a-206, show that the average annual amount of revenue calculated under Subsection (4)(a)(iv) does not exceed the average annual cost calculated under Subsection (4)(a)(iii) by more than 5%, the process to incorporate the area that is the subject of the feasibility study or supplemental feasibility study may not proceed.

(b) The process to incorporate an area described in Subsection (6)(a) may proceed if a subsequent supplemental feasibility study conducted under Section 10-2a-206 for the proposed incorporation demonstrates compliance with Subsection (6)(a).

(7) If the results of the feasibility study or revised feasibility study do not comply with Subsection (6), and if requested by the sponsors of the request, the feasibility consultant shall, as part of the feasibility study or revised feasibility study, make recommendations regarding how the boundaries of the proposed municipality may be altered to comply with Subsection (6).

(8) The lieutenant governor shall post a copy of the feasibility study, and any supplemental feasibility study described in Section 10-2a-206, on the lieutenant governor's website and make a copy available for public review at the Office of the Lieutenant Governor.

Section 13. Section **10-2a-210** is amended to read:

10-2a-210. Incorporation election -- Notice of election -- Voter information pamphlet.

(1) (a) If the lieutenant governor certifies a petition under Subsection 10-2a-209(1)(b), the lieutenant governor shall schedule an incorporation election for the proposed municipality described in the petition to be held on the date of the next regular general election described in

Section 20A-1-201, or the next municipal general election described in Section 20A-1-202, that is at least 65 days after the day on which the lieutenant governor certifies the petition.

(b) (i) The lieutenant governor shall direct the county legislative body of the county in which the proposed municipality is located to hold the election on the date that the lieutenant governor schedules under Subsection (1)(a).

(ii) The county shall hold the election as directed by the lieutenant governor under Subsection (1)(b)(i).

(2) The county clerk shall provide notice of the election:

(a) (i) by publishing notice in a newspaper of general circulation within the area proposed to be incorporated at least once a week for three successive weeks before the election;

(ii) at least three weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the area proposed to be incorporated, in places within the area proposed to be incorporated that are most likely to give notice to the voters within the area proposed to be incorporated, subject to a maximum of 10 notices; or

(iii) at least three weeks before the day of the election, by mailing notice to each registered voter in the area proposed to be incorporated;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks before the day of the election;

(c) if the proposed municipality has a website, by posting notice on the proposed municipality's website for three weeks before the day of the election; and

(d) by posting notice on the county's website for three weeks before the day of the election.

(3) (a) The notice required by Subsection (2) shall contain:

(i) a statement of the contents of the petition;

(ii) a description of the area proposed to be incorporated as a municipality;

(iii) a statement of the date and time of the election and the location of polling places; and

(iv) except as provided in Subsection (3)(b), the feasibility study summary described in Subsection 10-2a-205(3)(c) and a statement that a full copy of the study is available on the lieutenant governor's website and for inspection at the Office of the Lieutenant Governor.

(b) Instead of including the feasibility summary under Subsection (3)(a)(iv), the notice

may include a statement that specifies the following sources where a registered voter in the area proposed to be incorporated may view or obtain a copy of the feasibility study:

(i) the lieutenant governor's website;

(ii) the physical address of the Office of the Lieutenant Governor; and

(iii) a mailing address and telephone number.

(4) (a) In addition to the notice required under Subsection (2), the county clerk shall publish and distribute, before the incorporation election is held, a voter information pamphlet:

(i) in accordance with the procedures and requirements of Section 20A-7-402;

(ii) in consultation with the lieutenant governor; and

(iii) in a manner that the county clerk determines is adequate, subject to Subsections (4)(a)(i) and (ii).

(b) The voter information pamphlet described in Subsection (4)(a):

(i) shall inform the public of the proposed incorporation; and

(ii) may include written statements, printed in the same font style and point size, from proponents and opponents of the proposed incorporation.

(5) An individual may not vote in an incorporation election under this section unless the individual is a registered voter who [~~resides~~] is a resident, as defined in Section 20A-1-102, within the boundaries of the proposed municipality.

(6) If a majority of those who vote in an incorporation election held under this section cast votes in favor of incorporation, the area shall incorporate.

Section 14. Section **10-2a-404** is amended to read:

10-2a-404. Election.

(1) (a) Notwithstanding Section 20A-1-203, a county of the first class shall hold a local special election on November 3, 2015, on the following ballot propositions:

(i) for registered voters residing within a planning township:

(A) whether the planning township shall be incorporated as a city or town, according to the classifications of Section 10-2-301, or as a metro township; and

(B) if the planning township incorporates as a metro township, whether the metro township is included in a municipal services district; and

(ii) for registered voters residing within an unincorporated island, whether the island should maintain its unincorporated status or be annexed into an eligible city.

(b) (i) A metro township incorporated under this part shall be governed by the five-member council in accordance with Chapter 3b, Part 5, Metro Township Council Form of Municipal Government.

(ii) A city or town incorporated under this part shall be governed by the five-member council form of government as defined in Section 10-3b-102.

(2) Unless a person is a registered voter who [~~resides~~] is a resident, as defined in Section 20A-1-102, within the boundaries of a planning township or an unincorporated island, the person may not vote on the proposed incorporation or annexation.

(3) The county clerk shall post notice of the election on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks before the election.

(4) The notice required by Subsection (3) shall contain:

(a) for residents of a planning township:

(i) a statement that the voters will vote:

(A) to incorporate as a city or town, according to the classifications of Section 10-2-301, or as a metro township; and

(B) if the planning township incorporates as a metro township, whether the metro township is included in a municipal services district;

(ii) if applicable under Subsection 10-2a-405(5), a map showing the alteration to the planning township boundaries that would be effective upon incorporation;

(iii) a statement that if the residents of the planning township elect to incorporate:

(A) as a metro township, the metro township shall be governed by a five-member metro township council in accordance with Chapter 3b, Part 5, Metro Township Council Form of Municipal Government; or

(B) as a city or town, the city or town shall be governed by the five-member council form of government as defined in Section 10-3b-102; and

(iv) a statement of the date and time of the election and the location of polling places;

(b) for residents of an unincorporated island:

(i) a statement that the voters will vote either to be annexed into an eligible city or maintain unincorporated status; and

(ii) a statement of the eligible city, as determined by the county legislative body in accordance with Section 10-2a-405, the unincorporated island may elect to be annexed by; and

(c) a statement of the date and time of the election and the location of polling places.

(5) (a) In addition to the notice required under Subsection (3), the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the planning township or unincorporated island that are most likely to give notice of the election to the voters of the proposed incorporation or annexation, subject to a maximum of 10 notices.

(b) The clerk shall post the notices under Subsection (5)(a) at least seven days before the election under Subsection (1).

(6) (a) In a planning township, if a majority of those casting votes within the planning township vote to:

(i) incorporate as a city or town, the planning township shall incorporate as a city or town, respectively; or

(ii) incorporate as a metro township, the planning township shall incorporate as a metro township.

(b) If a majority of those casting votes within the planning township vote to incorporate as a metro township, and a majority of those casting votes vote to include the metro township in a municipal services district and limit the metro township's municipal powers, the metro township shall be included in a municipal services district and have limited municipal powers.

(c) In an unincorporated island, if a majority of those casting a vote within the selected unincorporated island vote to:

(i) be annexed by the eligible city, the area shall be annexed by the eligible city; or

(ii) remain an unincorporated area, the area shall remain unincorporated.

(7) The county shall, in consultation with interested parties, prepare and provide information on an annexation or incorporation subject to this part and an election held in accordance with this section.

Section 15. Section **10-3c-102** is amended to read:

10-3c-102. Definitions.

As used in this chapter:

(1) "Municipal services district" means a [~~local~~] special district created in accordance with Title 17B, Chapter 2a, Part 11, Municipal Services District Act.

(2) "Metro township" means a metro township incorporated in accordance with Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County

of the First Class on and after May 12, 2015.

Section 16. Section **10-9a-103** is amended to read:

10-9a-103. Definitions.

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, [~~local~~] special district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or

(c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(6); and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(8) "Conditional use" means a land use that, because of the unique characteristics or potential impact of the land use on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(9) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution Article I, Section 22.

(10) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(11) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(12) (a) "Development agreement" means a written agreement or amendment to a written agreement between a municipality and one or more parties that regulates or controls the use or development of a specific area of land.

(b) "Development agreement" does not include an improvement completion assurance.

(13) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(14) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (14)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (14)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (14)(a)(i); or

(ii) a therapeutic school.

(15) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(16) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency

but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(17) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

(18) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(19) "Historic preservation authority" means a person, board, commission, or other body designated by a legislative body to:

(a) recommend land use regulations to preserve local historic districts or areas; and

(b) administer local historic preservation land use regulations within a local historic district or area.

(20) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.

(21) "Identical plans" means building plans submitted to a municipality that:

(a) are clearly marked as "identical plans";

(b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the

previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and

(iv) does not require any additional engineering or analysis.

(22) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(23) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

(24) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the municipality's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(25) "Improvement warranty period" means a period:

(a) no later than one year after a municipality's acceptance of required landscaping; or

(b) no later than one year after a municipality's acceptance of required infrastructure, unless the municipality:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.

(26) "Infrastructure improvement" means permanent infrastructure that is essential for

the public health and safety or that:

(a) is required for human occupation; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) whether the improvement is public or private, as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) development of a commercial, industrial, mixed use, condominium, or multifamily project.

(27) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(28) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

(29) "Land use application":

(a) means an application that is:

(i) required by a municipality; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

(30) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(31) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit; or

(b) a land use application.

(32) "Land use permit" means a permit issued by a land use authority.

(33) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

(34) "Legislative body" means the municipal council.

[~~(35) "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.~~]

[~~(36)~~] (35) "Local historic district or area" means a geographically definable area that:

(a) contains any combination of buildings, structures, sites, objects, landscape features, archeological sites, or works of art that contribute to the historic preservation goals of a legislative body; and

(b) is subject to land use regulations to preserve the historic significance of the local historic district or area.

[~~(37)~~] (36) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

[~~(38)~~] (37) (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or between a lot and adjoining parcels in accordance with Section 10-9a-608:

(i) whether or not the lots are located in the same subdivision; and

(ii) with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

(i) creates an additional lot; or

(ii) constitutes a subdivision.

(c) "Lot line adjustment" does not include a boundary line adjustment made by the Department of Transportation.

[~~(39)~~] (38) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

[~~(40)~~] (39) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

[~~(41)~~] (40) "Municipal utility easement" means an easement that:

(a) is created or depicted on a plat recorded in a county recorder's office and is described as a municipal utility easement granted for public use;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the municipality or the municipality's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines;

(d) is used or occupied with the consent of the municipality in accordance with an authorized franchise or other agreement;

(e) (i) is used or occupied by a specified public utility in accordance with an authorized franchise or other agreement; and

(ii) is located in a utility easement granted for public use; or

(f) is described in Section 10-9a-529 and is used by a specified public utility.

[~~(42)~~] (41) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

[~~(43)~~] (42) "Noncomplying structure" means a structure that:

(a) legally existed before the structure's current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

[~~(44)~~] (43) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

[~~(45)~~] (44) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the municipality's general plan.

[~~(46)~~] (45) "Parcel" means any real property that is not a lot.

[~~(47)~~] (46) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 10-9a-524, if no additional parcel is created and:

(i) none of the property identified in the agreement is a lot; or

(ii) the adjustment is to the boundaries of a single person's parcels.

(b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary

line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

(c) "Parcel boundary adjustment" does not include a boundary line adjustment made by the Department of Transportation.

[~~(48)~~] (47) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

[~~(49)~~] (48) "Plan for moderate income housing" means a written document adopted by a municipality's legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the municipality;

(b) an estimate of the need for moderate income housing in the municipality for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the municipality's program to encourage an adequate supply of moderate income housing.

[~~(50)~~] (49) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 10-9a-603 or 57-8-13.

[~~(51)~~] (50) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

[~~(52)~~] (51) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, [~~local~~] special district, special service district, or other political subdivision of the state; or

(d) a charter school.

[~~(53)~~] (52) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

[~~(54)~~] (53) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

[~~(55)~~] (54) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

[~~(56)~~] (55) "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

[~~(57)~~] (56) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

[~~(58)~~] (57) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

[~~(59)~~] (58) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

[~~(60)~~] (59) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

[~~(61)~~] (60) "Sending zone" means an area of a municipality that the municipality

designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

(61) "Special district" means an entity under Title 17B, Limited Purpose Local Government Entities - Special Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(62) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

(63) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(64) "State" includes any department, division, or agency of the state.

(65) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection (65)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;

(ii) a boundary line agreement recorded with the county recorder's office between owners of adjoining parcels adjusting the mutual boundary in accordance with Section 10-9a-524 if no new parcel is created;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal descriptions of multiple parcels into one legal description encompassing all such parcels; or

(B) joining a lot to a parcel;

(iv) a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Sections 10-9a-524 and 10-9a-608 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(v) a bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division:

(A) is in anticipation of future land use approvals on the parcel or parcels;

(B) does not confer any land use approvals; and

(C) has not been approved by the land use authority;

(vi) a parcel boundary adjustment;

(vii) a lot line adjustment;

(viii) a road, street, or highway dedication plat;

(ix) a deed or easement for a road, street, or highway purpose; or

(x) any other division of land authorized by law.

(66) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 10-9a-608 that:

(a) vacates all or a portion of the subdivision;

(b) alters the outside boundary of the subdivision;

(c) changes the number of lots within the subdivision;

(d) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

(e) alters a common area or other common amenity within the subdivision.

(67) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

(b) a reasonable mind would accept as adequate to support a conclusion.

(68) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a

3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

(69) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

(70) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

(71) "Unincorporated" means the area outside of the incorporated area of a city or town.

(72) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

(73) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 17. Section **10-9a-305** is amended to read:

10-9a-305. Other entities required to conform to municipality's land use ordinances -- Exceptions -- School districts and charter schools -- Submission of development plan and schedule.

(1) (a) Each county, municipality, school district, charter school, [~~local~~] special district, special service district, and political subdivision of the state shall conform to any applicable land use ordinance of any municipality when installing, constructing, operating, or otherwise using any area, land, or building situated within that municipality.

(b) In addition to any other remedies provided by law, when a municipality's land use ordinance is violated or about to be violated by another political subdivision, that municipality may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.

(2) (a) Except as provided in Subsection (3), a school district or charter school is subject to a municipality's land use ordinances.

(b) (i) Notwithstanding Subsection (3), a municipality may:

(A) subject a charter school to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

(B) impose regulations upon the location of a project that are necessary to avoid unreasonable risks to health or safety, as provided in Subsection (3)(f).

(ii) The standards to which a municipality may subject a charter school under Subsection (2)(b)(i) shall be objective standards only and may not be subjective.

(iii) Except as provided in Subsection (7)(d), the only basis upon which a municipality may deny or withhold approval of a charter school's land use application is the charter school's failure to comply with a standard imposed under Subsection (2)(b)(i).

(iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an obligation to comply with a requirement of an applicable building or safety code to which it is otherwise obligated to comply.

(3) A municipality may not:

(a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, additional building inspections, municipal building codes, building use for educational purposes, or the placement or use of temporary classroom facilities

on school property;

(b) except as otherwise provided in this section, require a school district or charter school to participate in the cost of any roadway or sidewalk, or a study on the impact of a school on a roadway or sidewalk, that is not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;

(c) require a district or charter school to pay fees not authorized by this section;

(d) provide for inspection of school construction or assess a fee or other charges for inspection, unless the school district or charter school is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent;

(e) require a school district or charter school to pay any impact fee for an improvement project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

(f) impose regulations upon the location of an educational facility except as necessary to avoid unreasonable risks to health or safety; or

(g) for a land use or a structure owned or operated by a school district or charter school that is not an educational facility but is used in support of providing instruction to pupils, impose a regulation that:

(i) is not imposed on a similar land use or structure in the zone in which the land use or structure is approved; or

(ii) uses the tax exempt status of the school district or charter school as criteria for prohibiting or regulating the land use or location of the structure.

(4) Subject to Section 53E-3-710, a school district or charter school shall coordinate the siting of a new school with the municipality in which the school is to be located, to:

(a) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the new school and future highways; and

(b) maximize school, student, and site safety.

(5) Notwithstanding Subsection (3)(d), a municipality may, at its discretion:

(a) provide a walk-through of school construction at no cost and at a time convenient to the district or charter school; and

(b) provide recommendations based upon the walk-through.

(6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

(i) a municipal building inspector;

(ii) (A) for a school district, a school district building inspector from that school district; or

(B) for a charter school, a school district building inspector from the school district in which the charter school is located; or

(iii) an independent, certified building inspector who is:

(A) not an employee of the contractor;

(B) approved by:

(I) a municipal building inspector; or

(II) (Aa) for a school district, a school district building inspector from that school district; or

(Bb) for a charter school, a school district building inspector from the school district in which the charter school is located; and

(C) licensed to perform the inspection that the inspector is requested to perform.

(b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.

(c) If a school district or charter school uses a school district or independent building inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to the state superintendent of public instruction and municipal building official, on a monthly basis during construction of the school building, a copy of each inspection certificate regarding the school building.

(7) (a) A charter school shall be considered a permitted use in all zoning districts within a municipality.

(b) Each land use application for any approval required for a charter school, including an application for a building permit, shall be processed on a first priority basis.

(c) Parking requirements for a charter school may not exceed the minimum parking requirements for schools or other institutional public uses throughout the municipality.

(d) If a municipality has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school may be prohibited from a location which would otherwise defeat the purpose for the zone unless the charter school provides a waiver.

(e) (i) A school district or a charter school may seek a certificate authorizing permanent

occupancy of a school building from:

(A) the state superintendent of public instruction, as provided in Subsection 53E-3-706(3), if the school district or charter school used an independent building inspector for inspection of the school building; or

(B) a municipal official with authority to issue the certificate, if the school district or charter school used a municipal building inspector for inspection of the school building.

(ii) A school district may issue its own certificate authorizing permanent occupancy of a school building if it used its own building inspector for inspection of the school building, subject to the notification requirement of Subsection 53E-3-706(3)(a)(ii).

(iii) A charter school may seek a certificate authorizing permanent occupancy of a school building from a school district official with authority to issue the certificate, if the charter school used a school district building inspector for inspection of the school building.

(iv) A certificate authorizing permanent occupancy issued by the state superintendent of public instruction under Subsection 53E-3-706(3) or a school district official with authority to issue the certificate shall be considered to satisfy any municipal requirement for an inspection or a certificate of occupancy.

(8) (a) A specified public agency intending to develop its land shall submit to the land use authority a development plan and schedule:

(i) as early as practicable in the development process, but no later than the commencement of construction; and

(ii) with sufficient detail to enable the land use authority to assess:

(A) the specified public agency's compliance with applicable land use ordinances;

(B) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b), (c), (d), (e), and (g) caused by the development;

(C) the amount of any applicable fee described in Section 10-9a-510;

(D) any credit against an impact fee; and

(E) the potential for waiving an impact fee.

(b) The land use authority shall respond to a specified public agency's submission under Subsection (8)(a) with reasonable promptness in order to allow the specified public agency to consider information the municipality provides under Subsection (8)(a)(ii) in the process of preparing the budget for the development.

(9) Nothing in this section may be construed to:

(a) modify or supersede Section 10-9a-304; or

(b) authorize a municipality to enforce an ordinance in a way, or enact an ordinance, that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. 12102, or any other provision of federal law.

Section 18. Section **10-9a-529** is amended to read:

10-9a-529. Specified public utility located in a municipal utility easement.

A specified public utility may exercise each power of a public utility under Section 54-3-27 if the specified public utility uses an easement:

(1) with the consent of a municipality; and

(2) that is located within a municipal utility easement described in Subsections [~~10-9a-103(41)(a)~~] 10-9a-103(40)(a) through (e).

Section 19. Section **11-2-1** is amended to read:

11-2-1. Local authorities may designate and acquire property for playgrounds and recreational facilities.

The governing body of any city, town, school district, [~~local~~] special district, special service district, or county may designate and set apart for use as playgrounds, athletic fields, gymnasiums, public baths, swimming pools, camps, indoor recreation centers, television transmission and relay facilities, or other recreational facilities, any lands, buildings or personal property owned by such cities, towns, counties, [~~local~~] special districts, special service districts, or school districts that may be suitable for such purposes; and may, in such manner as may be authorized and provided by law for the acquisition of lands or buildings for public purposes in such cities, towns, counties, [~~local~~] special districts, special service districts, and school districts, acquire lands, buildings, and personal property therein for such use; and may equip, maintain, operate and supervise the same, employing such play leaders, recreation directors, supervisors and other employees as it may deem proper. Such acquisition of lands, buildings and personal property and the equipping, maintaining, operating and supervision of the same shall be deemed to be for public, governmental and municipal purposes.

Section 20. Section **11-13-103** is amended to read:

11-13-103. Definitions.

As used in this chapter:

(1) (a) "Additional project capacity" means electric generating capacity provided by a generating unit that first produces electricity on or after May 6, 2002, and that is constructed or installed at or adjacent to the site of a project that first produced electricity before May 6, 2002, regardless of whether:

(i) the owners of the new generating unit are the same as or different from the owner of the project; and

(ii) the purchasers of electricity from the new generating unit are the same as or different from the purchasers of electricity from the project.

(b) "Additional project capacity" does not mean or include replacement project capacity.

(2) "Board" means the Permanent Community Impact Fund Board created by Section 35A-8-304, and its successors.

(3) "Candidate" means one or more of:

(a) the state;

(b) a county, municipality, school district, [~~local~~] special district, special service district, or other political subdivision of the state; and

(c) a prosecution district.

(4) "Commercial project entity" means a project entity, defined in Subsection (18), that:

(a) has no taxing authority; and

(b) is not supported in whole or in part by and does not expend or disburse tax revenues.

(5) "Direct impacts" means an increase in the need for public facilities or services that is attributable to the project or facilities providing additional project capacity, except impacts resulting from the construction or operation of a facility that is:

(a) owned by an owner other than the owner of the project or of the facilities providing additional project capacity; and

(b) used to furnish fuel, construction, or operation materials for use in the project.

(6) "Electric interlocal entity" means an interlocal entity described in Subsection 11-13-203(3).

(7) "Energy services interlocal entity" means an interlocal entity that is described in Subsection 11-13-203(4).

(8) (a) "Estimated electric requirements," when used with respect to a qualified energy services interlocal entity, includes any of the following that meets the requirements of Subsection (8)(b):

(i) generation capacity;

(ii) generation output; or

(iii) an electric energy production facility.

(b) An item listed in Subsection (8)(a) is included in "estimated electric requirements" if it is needed by the qualified energy services interlocal entity to perform the qualified energy services interlocal entity's contractual or legal obligations to any of its members.

(9) (a) "Facilities providing replacement project capacity" means facilities that have been, are being, or are proposed to be constructed, reconstructed, converted, repowered, acquired, leased, used, or installed to provide replacement project capacity.

(b) "Facilities providing replacement project capacity" includes facilities that have been, are being, or are proposed to be constructed, reconstructed, converted, repowered, acquired, leased, used, or installed:

(i) to support and facilitate the construction, reconstruction, conversion, repowering, installation, financing, operation, management, or use of replacement project capacity; or

(ii) for the distribution of power generated from existing capacity or replacement project capacity to facilities located on real property in which the project entity that owns the project has an ownership, leasehold, right-of-way, or permitted interest.

(10) "Governing authority" means a governing board or joint administrator.

(11) (a) "Governing board" means the body established in reliance on the authority provided under Subsection 11-13-206(1)(b) to govern an interlocal entity.

(b) "Governing board" includes a board of directors described in an agreement, as amended, that creates a project entity.

(c) "Governing board" does not include a board as defined in Subsection (2).

(12) "Interlocal entity" means:

(a) a Utah interlocal entity, an electric interlocal entity, or an energy services interlocal entity; or

(b) a separate legal or administrative entity created under Section 11-13-205.

(13) "Joint administrator" means an administrator or joint board described in Section 11-13-207 to administer a joint or cooperative undertaking.

(14) "Joint or cooperative undertaking" means an undertaking described in Section 11-13-207 that is not conducted by an interlocal entity.

(15) "Member" means a public agency that, with another public agency, creates an interlocal entity under Section 11-13-203.

(16) "Out-of-state public agency" means a public agency as defined in Subsection (19)(c), (d), or (e).

(17) (a) "Project":

(i) means an electric generation and transmission facility owned by a Utah interlocal entity or an electric interlocal entity; and

(ii) includes fuel facilities, fuel production facilities, fuel transportation facilities, energy storage facilities, or water facilities that are:

(A) owned by that Utah interlocal entity or electric interlocal entity; and

(B) required for the generation and transmission facility.

(b) "Project" includes a project entity's ownership interest in:

(i) facilities that provide additional project capacity;

(ii) facilities providing replacement project capacity;

(iii) additional generating, transmission, fuel, fuel transportation, water, or other facilities added to a project; and

(iv) a Utah interlocal energy hub, as defined in Section 11-13-602.

(18) "Project entity" means a Utah interlocal entity or an electric interlocal entity that owns a project as defined in this section.

(19) "Public agency" means:

(a) a city, town, county, school district, [~~local~~] special district, special service district, an interlocal entity, or other political subdivision of the state;

(b) the state or any department, division, or agency of the state;

(c) any agency of the United States;

(d) any political subdivision or agency of another state or the District of Columbia including any interlocal cooperation or joint powers agency formed under the authority of the

law of the other state or the District of Columbia; or

(e) any Indian tribe, band, nation, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(20) "Qualified energy services interlocal entity" means an energy services interlocal entity that at the time that the energy services interlocal entity acquires its interest in facilities providing additional project capacity has at least five members that are Utah public agencies.

(21) "Replacement project capacity" means electric generating capacity or transmission capacity that:

(a) replaces all or a portion of the existing electric generating or transmission capacity of a project; and

(b) is provided by a facility that is on, adjacent to, in proximity to, or interconnected with the site of a project, regardless of whether:

(i) the capacity replacing existing capacity is less than or exceeds the generating or transmission capacity of the project existing before installation of the capacity replacing existing capacity;

(ii) the capacity replacing existing capacity is owned by the project entity that is the owner of the project, a segment established by the project entity, or a person with whom the project entity or a segment established by the project entity has contracted; or

(iii) the facility that provides the capacity replacing existing capacity is constructed, reconstructed, converted, repowered, acquired, leased, used, or installed before or after any actual or anticipated reduction or modification to existing capacity of the project.

(22) "Transportation reinvestment zone" means an area created by two or more public agencies by interlocal agreement to capture increased property or sales tax revenue generated by a transportation infrastructure project as described in Section 11-13-227.

(23) "Utah interlocal entity":

(a) means an interlocal entity described in Subsection 11-13-203(2); and

(b) includes a separate legal or administrative entity created under Laws of Utah 1977, Chapter 47, Section 3, as amended.

(24) "Utah public agency" means a public agency under Subsection (19)(a) or (b).

Section 21. Section **11-13a-102** is amended to read:

11-13a-102. Definitions.

As used in this chapter:

(1) "Controlling interest" means that one or more governmental entities collectively represent a majority of the board's voting power as outlined in the nonprofit corporation's governing documents.

(2) (a) "Governing board" means the body that governs a governmental nonprofit corporation.

(b) "Governing board" includes a board of directors.

(3) "Governmental entity" means the state, a county, a municipality, a [~~local~~] special district, a special service district, a school district, a state institution of higher education, or any other political subdivision or administrative unit of the state.

(4) (a) "Governmental nonprofit corporation" means:

(i) a nonprofit corporation that is wholly owned or wholly controlled by one or more governmental entities, unless the nonprofit corporation receives no operating funding or other financial support from any governmental entity; or

(ii) a nonprofit corporation in which one or more governmental entities exercise a controlling interest and:

(A) that exercises taxing authority;

(B) that imposes a mandatory fee for association or participation with the nonprofit corporation where that association or participation is mandated by law; or

(C) that receives a majority of the nonprofit corporation's operating funding from one or more governmental entities under the nonprofit corporation's governing documents, except where voluntary membership fees, dues, or assessments compose the operating funding.

(b) "Governmental nonprofit corporation" does not include a water company, as that term is defined in Section 16-4-102, unless the water company is wholly owned by one or more governmental entities.

(5) "Municipality" means a city, town, or metro township.

Section 22. Section **11-14-102** is amended to read:

11-14-102. Definitions.

For the purpose of this chapter:

(1) "Bond" means any bond authorized to be issued under this chapter, including

municipal bonds.

(2) "Election results" has the same meaning as defined in Section 20A-1-102.

(3) "Governing body" means:

(a) for a county, city, town, or metro township, the legislative body of the county, city, or town;

(b) for a [~~local~~] special district, the board of trustees of the [~~local~~] special district;

(c) for a school district, the local board of education; or

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the governing body of the county or municipality that created the special service district, if no administrative control board has been established under Section 17D-1-301; or

(ii) the administrative control board, if one has been established under Section 17D-1-301 and the power to issue bonds not payable from taxes has been delegated to the administrative control board.

[~~(4) "Local district" means a district operating under Title 17B, Limited Purpose Local Government Entities - Local Districts.~~]

[~~(5)~~] (4) (a) "Local political subdivision" means a county, city, town, metro township, school district, [~~local~~] special district, or special service district.

(b) "Local political subdivision" does not include the state and its institutions.

(5) "Special district" means a district operating under Title 17B, Limited Purpose Local Government Entities - Special Districts.

Section 23. Section **11-14a-1** is amended to read:

11-14a-1. Notice of debt issuance.

(1) For purposes of this chapter:

(a) (i) "Debt" includes bonds, lease purchase agreements, certificates of participation, and contracts with municipal building authorities.

(ii) "Debt" does not include tax and revenue anticipation notes or refunding bonds.

(b) (i) "Local government entity" means a county, city, town, school district, [~~local~~] special district, or special service district.

(ii) "Local government entity" does not mean an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act that has assets over

$10,000,000.

(c) "New debt resolution" means a resolution authorizing the issuance of debt wholly or partially to fund a rejected project.

(d) "Rejected Project" means a project for which a local government entity sought voter approval for general obligation bond financing and failed to receive that approval.

(2) Unless a local government entity complies with the requirements of this section, it may not adopt a new debt resolution.

(3) (a) Before adopting a new debt resolution, a local government entity shall:

(i) advertise the local government entity's intent to issue debt by posting a notice of that intent on the Utah Public Notice Website created in Section 63A-16-601, for the two weeks before the meeting at which the resolution will be considered; or

(ii) include notice of its intent to issue debt in a bill or other mailing sent to at least 95% of the residents of the local government entity.

(b) The local government entity shall ensure that the notice:

(i) except for website publication, is at least as large as the bill or other mailing that it accompanies;

(ii) is entitled, in type size no smaller than 24 point, "Intent to Issue Debt"; and

(iii) contains the information required by Subsection (3)(c).

(c) The local government entity shall ensure that the advertisement or notice described in Subsection (3)(a):

(i) identifies the local government entity;

(ii) states that the entity will meet on a day, time, and place identified in the advertisement or notice to hear public comments regarding a resolution authorizing the issuance of debt by the entity and to explain to the public the reasons for the issuance of debt;

(iii) contains:

(A) the name of the entity that will issue the debt;

(B) the purpose of the debt; and

(C) that type of debt and the maximum principal amount that may be issued;

(iv) invites all concerned citizens to attend the public hearing; and

(v) states that some or all of the proposed debt would fund a project whose general obligation bond financing was rejected by the voters.

(4) (a) The resolution considered at the hearing shall identify:

(i) the type of debt proposed to be issued;

(ii) the maximum principal amount that might be issued;

(iii) the interest rate;

(iv) the term of the debt; and

(v) how the debt will be repaid.

(b) (i) Except as provided in Subsection (4)(b)(ii), the resolution considered at the hearing need not be in final form and need not be adopted or rejected at the meeting at which the public hearing is held.

(ii) The local government entity may not, in the final resolution, increase the maximum principal amount of debt contained in the notice and discussed at the hearing.

(c) The local government entity may adopt, amend and adopt, or reject the resolution at a later meeting without recomplying with the published notice requirements of this section.

Section 24. Section **11-27-2** is amended to read:

11-27-2. Definitions.

As used in this chapter:

(1) "Advance refunding bonds" means refunding bonds issued for the purpose of refunding outstanding bonds in advance of their maturity.

(2) "Assessments" means a special tax levied against property within a special improvement district to pay all or a portion of the costs of making improvements in the district.

(3) "Bond" means any revenue bond, general obligation bond, tax increment bond, special improvement bond, local building authority bond, or refunding bond.

(4) "General obligation bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a public body payable in whole or in part from revenues derived from ad valorem taxes and that constitutes an indebtedness within the meaning of any applicable constitutional or statutory debt limitation.

(5) "Governing body" means the council, commission, county legislative body, board of directors, board of trustees, board of education, board of higher education, or other legislative body of a public body designated in this chapter that is vested with the legislative powers of the public body, and, with respect to the state, the State Bonding Commission created by Section 63B-1-201.

(6) "Government obligations" means:

(a) direct obligations of the United States of America, or other securities, the principal of and interest on which are unconditionally guaranteed by the United States of America; or

(b) obligations of any state, territory, or possession of the United States, or of any of the political subdivisions of any state, territory, or possession of the United States, or of the District of Columbia described in Section 103(a), Internal Revenue Code of 1986.

(7) "Issuer" means the public body issuing any bond or bonds.

(8) "Public body" means the state or any agency, authority, instrumentality, or institution of the state, or any municipal or quasi-municipal corporation, political subdivision, agency, school district, [~~local~~] special district, special service district, or other governmental entity now or hereafter existing under the laws of the state.

(9) "Refunding bonds" means bonds issued under the authority of this chapter for the purpose of refunding outstanding bonds.

(10) "Resolution" means a resolution of the governing body of a public body taking formal action under this chapter.

(11) "Revenue bond" means any bond, note, warrant, certificate of indebtedness, or other obligation for the payment of money issued by a public body or any predecessor of any public body and that is payable from designated revenues not derived from ad valorem taxes or from a special fund composed of revenues not derived from ad valorem taxes, but excluding all of the following:

(a) any obligation constituting an indebtedness within the meaning of any applicable constitutional or statutory debt limitation;

(b) any obligation issued in anticipation of the collection of taxes, where the entire issue matures not later than one year from the date of the issue; and

(c) any special improvement bond.

(12) "Special improvement bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a public body or any predecessor of any public body that is payable from assessments levied on benefitted property and from any special improvement guaranty fund.

(13) "Special improvement guaranty fund" means any special improvement guaranty fund established under Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities;

Title 11, Chapter 42, Assessment Area Act; or any predecessor or similar statute.

(14) "Tax increment bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a public body issued under authority of Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act.

Section 25. Section **11-30-2** is amended to read:

11-30-2. Definitions.

As used in this chapter:

(1) "Attorney general" means the attorney general of the state or one of his assistants.

(2) "Bonds" means any evidence or contract of indebtedness that is issued or authorized by a public body, including, without limitation, bonds, refunding bonds, advance refunding bonds, bond anticipation notes, tax anticipation notes, notes, certificates of indebtedness, warrants, commercial paper, contracts, and leases, whether they are general obligations of the issuing public body or are payable solely from a specified source, including annual appropriations by the public body.

(3) "County attorney" means the county attorney of a county or one of his assistants.

(4) "Lease" means any lease agreement, lease purchase agreement, and installment purchase agreement, and any certificate of interest or participation in any of the foregoing. Reference in this chapter to issuance of bonds includes execution and delivery of leases.

(5) "Person" means any person, association, corporation, or other entity.

(6) "Public body" means the state or any agency, authority, instrumentality, or institution of the state, or any county, municipality, quasi-municipal corporation, school district, [~~local~~] special district, special service district, political subdivision, or other governmental entity existing under the laws of the state, whether or not possessed of any taxing power. With respect to leases, public body, as used in this chapter, refers to the public body which is the lessee, or is otherwise the obligor with respect to payment under any such leases.

(7) "Refunding bonds" means any bonds that are issued to refund outstanding bonds, including both refunding bonds and advance refunding bonds.

(8) "State" means the state of Utah.

(9) "Validity" means any matter relating to the legality and validity of the bonds and the security therefor, including, without limitation, the legality and validity of:

(a) a public body's authority to issue and deliver the bonds;

(b) any ordinance, resolution, or statute granting the public body authority to issue and deliver the bonds;

(c) all proceedings, elections, if any, and any other actions taken or to be taken in connection with the issuance, sale, or delivery of the bonds;

(d) the purpose, location, or manner of the expenditure of funds;

(e) the organization or boundaries of the public body;

(f) any assessments, taxes, rates, rentals, fees, charges, or tolls levied or that may be levied in connection with the bonds;

(g) any lien, proceeding, or other remedy for the collection of those assessments, taxes, rates, rentals, fees, charges, or tolls;

(h) any contract or lease executed or to be executed in connection with the bonds;

(i) the pledge of any taxes, revenues, receipts, rentals, or property, or encumbrance thereon or security interest therein to secure the bonds; and

(j) any covenants or provisions contained in or to be contained in the bonds. If any deed, will, statute, resolution, ordinance, lease, indenture, contract, franchise, or other instrument may have an effect on any of the aforementioned, validity also means a declaration of the validity and legality thereof and of rights, status, or other legal relations arising therefrom.

Section 26. Section **11-31-2** is amended to read:

11-31-2. Definitions.

As used in this chapter:

(1) "Bonds" means any evidence or contract of indebtedness that is issued or authorized by a public body, including, without limitation, bonds, refunding bonds, advance refunding bonds, bond anticipation notes, tax anticipation notes, notes, certificates of indebtedness, warrants, commercial paper, contracts, and leases, whether they are general obligations of the issuing public body or are payable solely from a specified source, including annual appropriations by the public body.

(2) "Legislative body" means, with respect to any action to be taken by a public body with respect to bonds, the board, commission, council, agency, or other similar body authorized by law to take legislative action on behalf of the public body, and in the case of the state, the Legislature, the state treasurer, the commission created under Section 63B-1-201, and any other

entities the Legislature designates.

(3) "Public body" means the state and any public department, public agency, or other public entity existing under the laws of the state, including, without limitation, any agency, authority, instrumentality, or institution of the state, and any county, city, town, municipal corporation, quasi-municipal corporation, state university or college, school district, special service district, [~~local~~] special district, separate legal or administrative entity created under the Interlocal Cooperation Act or other joint agreement entity, community reinvestment agency, and any other political subdivision, public authority, public agency, or public trust existing under the laws of the state.

Section 27. Section **11-32-2** is amended to read:

11-32-2. Definitions.

As used in this chapter:

(1) "Assignment agreement" means the agreement, security agreement, indenture, or other documentation by which the county transfers the delinquent tax receivables to the authority in consideration of the amounts paid by the authority under the assignment agreement, as provided in this chapter.

(2) "Bonds" means any bonds, notes, or other evidence of indebtedness of the financing authority issued under this chapter.

(3) "Delinquent tax receivables" means those ad valorem tangible property taxes levied within any county, for any year, which remain unpaid and owing the participant members within the county, as of January 15 of the following year, plus any interest and penalties accruing or assessed to them.

(4) "Financing authority" or "authority" means a nonprofit corporation organized under this chapter by a county on behalf of the participant members within the county as the financing authority for the participant members solely for the purpose of financing the assignment of the delinquent tax receivables of the participant members for which it was created.

(5) "Governing body" means the council, commission, county legislative body, board of education, board of trustees, or any other governing entity of a public body in which the legislative powers of the public body are vested.

(6) "Participant members" means those public bodies, including the county, the

governing bodies of which approve the creation of an authority as provided in Section 11-32-3 and on whose behalf the authority acts.

(7) "Public body" means any city, town, county, school district, special service district, [~~local~~] special district, community reinvestment agency, or any other entity entitled to receive ad valorem property taxes, existing under the laws of the state.

Section 28. Section **11-34-1** is amended to read:

11-34-1. Definitions.

As used in this chapter:

(1) "Bonds" means any evidence or contract of indebtedness that is issued or authorized by a public body, including, without limitation, bonds, refunding bonds, advance refunding bonds, bond anticipation notes, tax anticipation notes, notes, certificates of indebtedness, warrants, commercial paper, contracts, and leases, whether they are general obligations of the issuing public body or are payable solely from a specified source, including annual appropriations by the public body.

(2) "Public body" means the state and any public department, public agency, or other public entity existing under the laws of the state, including, without limitation, any agency, authority, instrumentality, or institution of the state, and any county, city, town, municipal corporation, quasi-municipal corporation, state university or college, school district, special service district, [~~local~~] special district, separate legal or administrative entity created under the Interlocal Cooperation Act or other joint agreement entity, community reinvestment agency, and any other political subdivision, public authority, public agency, or public trust existing under the laws of this state.

Section 29. Section **11-36a-102** is amended to read:

11-36a-102. Definitions.

As used in this chapter:

(1) (a) "Affected entity" means each county, municipality, [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:

(i) whose services or facilities are likely to require expansion or significant

modification because of the facilities proposed in the proposed impact fee facilities plan; or

(ii) that has filed with the local political subdivision or private entity a copy of the general or long-range plan of the county, municipality, [~~local~~] special district, special service district, school district, interlocal cooperation entity, or specified public utility.

(b) "Affected entity" does not include the local political subdivision or private entity that is required under Section 11-36a-501 to provide notice.

(2) "Charter school" includes:

(a) an operating charter school;

(b) an applicant for a charter school whose application has been approved by a charter school authorizer as provided in Title 53G, Chapter 5, Part 6, Charter School Credit Enhancement Program; and

(c) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(3) "Development activity" means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of land that creates additional demand and need for public facilities.

(4) "Development approval" means:

(a) except as provided in Subsection (4)(b), any written authorization from a local political subdivision that authorizes the commencement of development activity;

(b) development activity, for a public entity that may develop without written authorization from a local political subdivision;

(c) a written authorization from a public water supplier, as defined in Section 73-1-4, or a private water company:

(i) to reserve or provide:

(A) a water right;

(B) a system capacity; or

(C) a distribution facility; or

(ii) to deliver for a development activity:

(A) culinary water; or

(B) irrigation water; or

(d) a written authorization from a sanitary sewer authority, as defined in Section

10-9a-103:

(i) to reserve or provide:

(A) sewer collection capacity; or

(B) treatment capacity; or

(ii) to provide sewer service for a development activity.

(5) "Enactment" means:

(a) a municipal ordinance, for a municipality;

(b) a county ordinance, for a county; and

(c) a governing board resolution, for a [~~local~~] special district, special service district, or private entity.

(6) "Encumber" means:

(a) a pledge to retire a debt; or

(b) an allocation to a current purchase order or contract.

(7) "Expense for overhead" means a cost that a local political subdivision or private entity:

(a) incurs in connection with:

(i) developing an impact fee facilities plan;

(ii) developing an impact fee analysis; or

(iii) imposing an impact fee, including any related overhead expenses; and

(b) calculates in accordance with a methodology that is consistent with generally accepted cost accounting practices.

(8) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a gas, water, sewer, storm water, power, or other utility system of a municipality, county, [~~local~~] special district, special service district, or private entity.

(9) (a) "Impact fee" means a payment of money imposed upon new development activity as a condition of development approval to mitigate the impact of the new development on public infrastructure.

(b) "Impact fee" does not mean a tax, a special assessment, a building permit fee, a hookup fee, a fee for project improvements, or other reasonable permit or application fee.

(10) "Impact fee analysis" means the written analysis of each impact fee required by

Section 11-36a-303.

(11) "Impact fee facilities plan" means the plan required by Section 11-36a-301.

(12) "Level of service" means the defined performance standard or unit of demand for each capital component of a public facility within a service area.

(13) (a) "Local political subdivision" means a county, a municipality, a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, a special service district under Title 17D, Chapter 1, Special Service District Act, or the Point of the Mountain State Land Authority, created in Section 11-59-201.

(b) "Local political subdivision" does not mean a school district, whose impact fee activity is governed by Section 11-36a-206.

(14) "Private entity" means an entity in private ownership with at least 100 individual shareholders, customers, or connections, that is located in a first, second, third, or fourth class county and provides water to an applicant for development approval who is required to obtain water from the private entity either as a:

(a) specific condition of development approval by a local political subdivision acting pursuant to a prior agreement, whether written or unwritten, with the private entity; or

(b) functional condition of development approval because the private entity:

(i) has no reasonably equivalent competition in the immediate market; and

(ii) is the only realistic source of water for the applicant's development.

(15) (a) "Project improvements" means site improvements and facilities that are:

(i) planned and designed to provide service for development resulting from a development activity;

(ii) necessary for the use and convenience of the occupants or users of development resulting from a development activity; and

(iii) not identified or reimbursed as a system improvement.

(b) "Project improvements" does not mean system improvements.

(16) "Proportionate share" means the cost of public facility improvements that are roughly proportionate and reasonably related to the service demands and needs of any development activity.

(17) "Public facilities" means only the following impact fee facilities that have a life

expectancy of 10 or more years and are owned or operated by or on behalf of a local political subdivision or private entity:

(a) water rights and water supply, treatment, storage, and distribution facilities;

(b) wastewater collection and treatment facilities;

(c) storm water, drainage, and flood control facilities;

(d) municipal power facilities;

(e) roadway facilities;

(f) parks, recreation facilities, open space, and trails;

(g) public safety facilities;

(h) environmental mitigation as provided in Section 11-36a-205; or

(i) municipal natural gas facilities.

(18) (a) "Public safety facility" means:

(i) a building constructed or leased to house police, fire, or other public safety entities; or

(ii) a fire suppression vehicle costing in excess of $500,000.

(b) "Public safety facility" does not mean a jail, prison, or other place of involuntary incarceration.

(19) (a) "Roadway facilities" means a street or road that has been designated on an officially adopted subdivision plat, roadway plan, or general plan of a political subdivision, together with all necessary appurtenances.

(b) "Roadway facilities" includes associated improvements to a federal or state roadway only when the associated improvements:

(i) are necessitated by the new development; and

(ii) are not funded by the state or federal government.

(c) "Roadway facilities" does not mean federal or state roadways.

(20) (a) "Service area" means a geographic area designated by an entity that imposes an impact fee on the basis of sound planning or engineering principles in which a public facility, or a defined set of public facilities, provides service within the area.

(b) "Service area" may include the entire local political subdivision or an entire area served by a private entity.

(21) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

(22) (a) "System improvements" means:

(i) existing public facilities that are:

(A) identified in the impact fee analysis under Section 11-36a-304; and

(B) designed to provide services to service areas within the community at large; and

(ii) future public facilities identified in the impact fee analysis under Section 11-36a-304 that are intended to provide services to service areas within the community at large.

(b) "System improvements" does not mean project improvements.

Section 30. Section **11-36a-203** is amended to read:

11-36a-203. Private entity assessment of impact fees -- Charges for water rights, physical infrastructure -- Notice -- Audit.

(1) A private entity:

(a) shall comply with the requirements of this chapter before imposing an impact fee; and

(b) except as otherwise specified in this chapter, is subject to the same requirements of this chapter as a local political subdivision.

(2) A private entity may only impose a charge for water rights or physical infrastructure necessary to provide water or sewer facilities by imposing an impact fee.

(3) Where notice and hearing requirements are specified, a private entity shall comply with the notice and hearing requirements for [~~local~~] special districts.

(4) A private entity that assesses an impact fee under this chapter is subject to the audit requirements of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Section 31. Section **11-36a-502** is amended to read:

11-36a-502. Notice to adopt or amend an impact fee facilities plan.

(1) If a local political subdivision chooses to prepare an independent impact fee facilities plan rather than include an impact fee facilities element in the general plan in accordance with Section 11-36a-301, the local political subdivision shall, before adopting or amending the impact fee facilities plan:

(a) give public notice, in accordance with Subsection (2), of the plan or amendment at least 10 days before the day on which the public hearing described in Subsection (1)(d) is scheduled;

(b) make a copy of the plan or amendment, together with a summary designed to be understood by a lay person, available to the public;

(c) place a copy of the plan or amendment and summary in each public library within the local political subdivision; and

(d) hold a public hearing to hear public comment on the plan or amendment.

(2) With respect to the public notice required under Subsection (1)(a):

(a) each municipality shall comply with the notice and hearing requirements of, and, except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Sections 10-9a-205 and 10-9a-801 and Subsection 10-9a-502(2);

(b) each county shall comply with the notice and hearing requirements of, and, except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Sections 17-27a-205 and 17-27a-801 and Subsection 17-27a-502(2); and

(c) each [~~local~~] special district, special service district, and private entity shall comply with the notice and hearing requirements of, and receive the protections of, Section 17B-1-111.

(3) Nothing contained in this section or Section 11-36a-503 may be construed to require involvement by a planning commission in the impact fee facilities planning process.

Section 32. Section **11-36a-504** is amended to read:

11-36a-504. Notice of intent to adopt impact fee enactment -- Hearing -- Protections.

(1) Before adopting an impact fee enactment:

(a) a municipality legislative body shall:

(i) comply with the notice requirements of Section 10-9a-205 as if the impact fee enactment were a land use regulation;

(ii) hold a hearing in accordance with Section 10-9a-502 as if the impact fee enactment were a land use regulation; and

(iii) except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Section 10-9a-801 as if the impact fee were a land use regulation;

(b) a county legislative body shall:

(i) comply with the notice requirements of Section 17-27a-205 as if the impact fee enactment were a land use regulation;

(ii) hold a hearing in accordance with Section 17-27a-502 as if the impact fee enactment were a land use regulation; and

(iii) except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Section 17-27a-801 as if the impact fee were a land use regulation;

(c) a [~~local~~] special district or special service district shall:

(i) comply with the notice and hearing requirements of Section 17B-1-111; and

(ii) receive the protections of Section 17B-1-111;

(d) a local political subdivision shall at least 10 days before the day on which a public hearing is scheduled in accordance with this section:

(i) make a copy of the impact fee enactment available to the public; and

(ii) post notice of the local political subdivision's intent to enact or modify the impact fee, specifying the type of impact fee being enacted or modified, on the Utah Public Notice Website created under Section 63A-16-601; and

(e) a local political subdivision shall submit a copy of the impact fee analysis and a copy of the summary of the impact fee analysis prepared in accordance with Section 11-36a-303 on its website or to each public library within the local political subdivision.

(2) Subsection (1)(a) or (b) may not be construed to require involvement by a planning commission in the impact fee enactment process.

Section 33. Section **11-39-101** is amended to read:

11-39-101. Definitions.

As used in this chapter:

(1) "Bid limit" means:

(a) for a building improvement:

(i) for the year 2003, $40,000; and

(ii) for each year after 2003, the amount of the bid limit for the previous year, plus an amount calculated by multiplying the amount of the bid limit for the previous year by the lesser of 3% or the actual percent change in the Consumer Price Index during the previous calendar year; and

(b) for a public works project:

(i) for the year 2003, $125,000; and

(ii) for each year after 2003, the amount of the bid limit for the previous year, plus an amount calculated by multiplying the amount of the bid limit for the previous year by the lesser of 3% or the actual percent change in the Consumer Price Index during the previous calendar year.

(2) "Building improvement":

(a) means the construction or repair of a public building or structure; and

(b) does not include construction or repair at an international airport.

(3) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

(4) (a) "Design-build project" means a building improvement or public works project for which both the design and construction are provided for in a single contract with a contractor or combination of contractors capable of providing design-build services.

(b) "Design-build project" does not include a building improvement or public works project:

(i) that a local entity undertakes under contract with a construction manager that guarantees the contract price and is at risk for any amount over the contract price; and

(ii) each component of which is competitively bid.

(5) "Design-build services" means the engineering, architectural, and other services necessary to formulate and implement a design-build project, including the actual construction of the project.

(6) "Emergency repairs" means a building improvement or public works project undertaken on an expedited basis to:

(a) eliminate an imminent risk of damage to or loss of public or private property;

(b) remedy a condition that poses an immediate physical danger; or

(c) reduce a substantial, imminent risk of interruption of an essential public service.

(7) "Governing body" means:

(a) for a county, city, town, or metro township, the legislative body of the county, city, town, or metro township;

(b) for a [~~local~~] special district, the board of trustees of the [~~local~~] special district; and

(c) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301.

[~~(8) "Local district" has the same meaning as defined in Section 17B-1-102.~~]

[~~(9)~~] (8) "Local entity" means a county, city, town, metro township, [~~local~~] special district, or special service district.

[~~(10)~~] (9) "Lowest responsive responsible bidder" means a prime contractor who:

(a) has submitted a bid in compliance with the invitation to bid and within the requirements of the plans and specifications for the building improvement or public works project;

(b) is the lowest bidder that satisfies the local entity's criteria relating to financial strength, past performance, integrity, reliability, and other factors that the local entity uses to assess the ability of a bidder to perform fully and in good faith the contract requirements;

(c) has furnished a bid bond or equivalent in money as a condition to the award of a prime contract; and

(d) furnishes a payment and performance bond as required by law.

[~~(11)~~] (10) "Procurement code" means the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

[~~(12)~~] (11) "Public works project":

(a) means the construction of:

(i) a park or recreational facility; or

(ii) a pipeline, culvert, dam, canal, or other system for water, sewage, storm water, or flood control; and

(b) does not include:

(i) the replacement or repair of existing infrastructure on private property;

(ii) construction commenced before June 1, 2003; and

(iii) construction or repair at an international airport.

(12) "Special district" means the same as that term is defined in Section 17B-1-102.

(13) "Special service district" has the same meaning as defined in Section 17D-1-102.

Section 34. Section **11-39-107** is amended to read:

11-39-107. Procurement code.

(1) This chapter may not be construed to:

(a) prohibit a county or municipal legislative body from adopting the procedures of the procurement code; or

(b) limit the application of the procurement code to a [~~local~~] special district or special service district.

(2) A local entity may adopt procedures for the following construction contracting methods:

(a) construction manager/general contractor, as defined in Section 63G-6a-103;

(b) a method that requires that the local entity draft a plan, specifications, and an estimate for the building improvement or public works project; or

(c) design-build, as defined in Section 63G-6a-103, if the local entity consults with a professional engineer licensed under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act, or an architect licensed under Title 58, Chapter 3a, Architects Licensing Act, who has design-build experience and is employed by or under contract with the local entity.

(3) (a) In seeking bids and awarding a contract for a building improvement or public works project, a county or a municipal legislative body may elect to follow the provisions of the procurement code, as the county or municipal legislative body considers appropriate under the circumstances, for specification preparation, source selection, or contract formation.

(b) A county or municipal legislative body's election to adopt the procedures of the procurement code may not excuse the county or municipality, respectively, from complying with the requirements to award a contract for work in excess of the bid limit and to publish notice of the intent to award.

(c) An election under Subsection (3)(a) may be made on a case-by-case basis, unless the county or municipality has previously adopted the procurement code.

(d) The county or municipal legislative body shall:

(i) make each election under Subsection (3)(a) in an open meeting; and

(ii) specify in its action the portions of the procurement code to be followed.

(4) If the estimated cost of the building improvement or public works project proposed

by a [~~local~~] special district or special service district exceeds the bid limit, the governing body of the [~~local~~{ }]. special{ } district or special service district may, if it determines to proceed with the building improvement or public works project, use the competitive procurement procedures of the procurement code in place of the comparable provisions of this chapter.

Section 35. Section **11-40-101** is amended to read:

11-40-101. Definitions.

As used in this chapter:

(1) "Applicant" means a person who seeks employment with a public water utility, either as an employee or as an independent contractor, and who, after employment, would, in the judgment of the public water utility, be in a position to affect the safety or security of the publicly owned treatment works or public water system or to affect the safety or well-being of patrons of the public water utility.

(2) "Division" means the Criminal Investigation and Technical Services Division of the Department of Public Safety, established in Section 53-10-103.

(3) "Independent contractor":

(a) means an engineer, contractor, consultant, or supplier who designs, constructs, operates, maintains, repairs, replaces, or provides water treatment or conveyance facilities or equipment, or related control or security facilities or equipment, to the public water utility; and

(b) includes the employees and agents of the engineer, contractor, consultant, or supplier.

(4) "Person seeking access" means a person who seeks access to a public water utility's public water system or publicly owned treatment works and who, after obtaining access, would, in the judgment of the public water utility, be in a position to affect the safety or security of the publicly owned treatment works or public water system or to affect the safety or well-being of patrons of the public water utility.

(5) "Publicly owned treatment works" has the same meaning as defined in Section 19-5-102.

(6) "Public water system" has the same meaning as defined in Section 19-4-102.

(7) "Public water utility" means a county, city, town, [~~local~~] special district under [~~Title 17B, Chapter 1, Provisions Applicable to All Local Districts~~] Title 17B, Chapter 1, Provisions Applicable to All Special Districts, special service district under Title 17D, Chapter 1, Special

Service District Act, or other political subdivision of the state that operates publicly owned treatment works or a public water system.

Section 36. Section **11-41-102** is amended to read:

11-41-102. Definitions.

As used in this chapter:

(1) "Agreement" means an oral or written agreement between a public entity and a person.

(2) "Business entity" means a sole proprietorship, partnership, limited partnership, limited liability company, corporation, or other entity or association used to carry on a business for profit.

(3) "Determination of violation" means a determination by the Governor's Office of Economic Opportunity of substantial likelihood that a retail facility incentive payment has been made in violation of Section 11-41-103, in accordance with Section 11-41-104.

(4) "Environmental mitigation" means an action or activity intended to remedy known negative impacts to the environment.

(5) "Executive director" means the executive director of the Governor's Office of Economic Opportunity.

(6) "General plan" means the same as that term is defined in Section 23-21-.5.

(7) "Mixed-use development" means development with mixed land uses, including housing.

(8) "Moderate income housing plan" means the moderate income housing plan element of a general plan.

(9) "Office" means the Governor's Office of Economic Opportunity.

(10) "Political subdivision" means any county, city, town, metro township, school district, [~~local~~] special district, special service district, community reinvestment agency, or entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act.

(11) "Public entity" means:

(a) a political subdivision;

(b) a state agency as defined in Section 63J-1-220;

(c) a higher education institution as defined in Section 53B-1-201;

(d) the Military Installation Development Authority created in Section 63H-1-201;

(e) the Utah Inland Port Authority created in Section 11-58-201; or

(f) the Point of the Mountain State Land Authority created in Section 11-59-201.

(12) "Public funds" means any money received by a public entity that is derived from:

(a) a sales and use tax authorized under Title 59, Chapter 12, Sales and Use Tax Act; or

(b) a property tax levy.

(13) "Public infrastructure" means:

(a) a public facility as defined in Section 11-36a-102; or

(b) public infrastructure included as part of an infrastructure master plan related to a general plan.

(14) "Retail facility" means any facility operated by a business entity for the primary purpose of making retail transactions.

(15) (a) "Retail facility incentive payment" means a payment of public funds:

(i) to a person by a public entity;

(ii) for the development, construction, renovation, or operation of a retail facility within an area of the state; and

(iii) in the form of:

(A) a payment;

(B) a rebate;

(C) a refund;

(D) a subsidy; or

(E) any other similar incentive, award, or offset.

(b) "Retail facility incentive payment" does not include a payment of public funds for:

(i) the development, construction, renovation, or operation of:

(A) public infrastructure; or

(B) a structured parking facility;

(ii) the demolition of an existing facility;

(iii) assistance under a state or local:

(A) main street program; or

(B) historic preservation program;

(iv) environmental mitigation or sanitation, if determined by a state or federal agency under applicable state or federal law;

(v) assistance under a water conservation program or energy efficiency program, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to participate in the program;

(vi) emergency aid or assistance, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to receive the emergency aid or assistance; or

(vii) assistance under a public safety or security program, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to participate in the program.

(16) "Retail transaction" means any transaction subject to a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

(17) (a) "Small business" means a business entity that:

(i) has fewer than 30 full-time equivalent employees; and

(ii) maintains the business entity's principal office in the state.

(b) "Small business" does not include:

(i) a franchisee, as defined in 16 C.F.R. Sec. 436.1;

(ii) a dealer, as defined in Section 41-1a-102; or

(iii) a subsidiary or affiliate of another business entity that is not a small business.

Section 37. Section **11-42-102** is amended to read:

11-42-102. Definitions.

(1) As used in this chapter:

(a) "Adequate protests" means, for all proposed assessment areas except sewer assessment areas, timely filed, written protests under Section 11-42-203 that represent at least 40% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied, after eliminating:

(i) protests relating to:

(A) property that has been deleted from a proposed assessment area; or

(B) an improvement that has been deleted from the proposed improvements to be

provided to property within the proposed assessment area; and

(ii) protests that have been withdrawn under Subsection 11-42-203(3).

(b) "Adequate protests" means, for a proposed sewer assessment area, timely filed, written protests under Section 11-42-203 that represent at least 70% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied, after eliminating adequate protests under Subsection (1)(a).

(2) "Assessment area" means an area, or, if more than one area is designated, the aggregate of all areas within a local entity's jurisdictional boundaries that is designated by a local entity under Part 2, Designating an Assessment Area, for the purpose of financing the costs of improvements, operation and maintenance, or economic promotion activities that benefit property within the area.

(3) "Assessment bonds" means bonds that are:

(a) issued under Section 11-42-605; and

(b) payable in part or in whole from assessments levied in an assessment area, improvement revenues, and a guaranty fund or reserve fund.

(4) "Assessment fund" means a special fund that a local entity establishes under Section 11-42-412.

(5) "Assessment lien" means a lien on property within an assessment area that arises from the levy of an assessment, as provided in Section 11-42-501.

(6) "Assessment method" means the method:

(a) by which an assessment is levied against benefitted property, whether by frontage, area, taxable value, fair market value, lot, parcel, number of connections, equivalent residential unit, any combination of these methods, or any other method; and

(b) that, when applied to a benefitted property, accounts for an assessment that meets the requirements of Section 11-42-409.

(7) "Assessment ordinance" means an ordinance adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

(8) "Assessment resolution" means a resolution adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

(9) "Benefitted property" means property within an assessment area that directly or indirectly benefits from improvements, operation and maintenance, or economic promotion activities.

(10) "Bond anticipation notes" means notes issued under Section 11-42-602 in anticipation of the issuance of assessment bonds.

(11) "Bonds" means assessment bonds and refunding assessment bonds.

(12) "Commercial area" means an area in which at least 75% of the property is devoted to the interchange of goods or commodities.

(13) (a) "Commercial or industrial real property" means real property used directly or indirectly or held for one of the following purposes or activities, regardless of whether the purpose or activity is for profit:

(i) commercial;

(ii) mining;

(iii) industrial;

(iv) manufacturing;

(v) governmental;

(vi) trade;

(vii) professional;

(viii) a private or public club;

(ix) a lodge;

(x) a business; or

(xi) a similar purpose.

(b) "Commercial or industrial real property" includes real property that:

(i) is used as or held for dwelling purposes; and

(ii) contains more than four rental units.

(14) "Connection fee" means a fee charged by a local entity to pay for the costs of connecting property to a publicly owned sewer, storm drainage, water, gas, communications, or electrical system, whether or not improvements are installed on the property.

(15) "Contract price" means:

(a) the cost of acquiring an improvement, if the improvement is acquired; or

(b) the amount payable to one or more contractors for the design, engineering,

inspection, and construction of an improvement.

(16) "Designation ordinance" means an ordinance adopted by a local entity under Section 11-42-206 designating an assessment area.

(17) "Designation resolution" means a resolution adopted by a local entity under Section 11-42-206 designating an assessment area.

(18) "Development authority" means:

(a) the Utah Inland Port Authority created in Section 11-58-201; or

(b) the military installation development authority created in Section 63H-1-201.

(19) "Economic promotion activities" means activities that promote economic growth in a commercial area of a local entity, including:

(a) sponsoring festivals and markets;

(b) promoting business investment or activities;

(c) helping to coordinate public and private actions; and

(d) developing and issuing publications designed to improve the economic well-being of the commercial area.

(20) "Environmental remediation activity" means a surface or subsurface enhancement, effort, cost, initial or ongoing maintenance expense, facility, installation, system, earth movement, or change to grade or elevation that improves the use, function, aesthetics, or environmental condition of publicly owned property.

(21) "Equivalent residential unit" means a dwelling, unit, or development that is equal to a single-family residence in terms of the nature of its use or impact on an improvement to be provided in the assessment area.

(22) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a [~~local~~] special district, the board of trustees of the [~~local~~] special district;

(c) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301;

(d) for the military installation development authority created in Section 63H-1-201,

the board, as defined in Section 63H-1-102;

(e) for the Utah Inland Port Authority, created in Section 11-58-201, the board, as defined in Section 11-58-102; and

(f) for a public infrastructure district, the board of the public infrastructure district as defined in Section 17D-4-102.

(23) "Guaranty fund" means the fund established by a local entity under Section 11-42-701.

(24) "Improved property" means property upon which a residential, commercial, or other building has been built.

(25) "Improvement":

(a) (i) means a publicly owned infrastructure, facility, system, or environmental remediation activity that:

(A) a local entity is authorized to provide;

(B) the governing body of a local entity determines is necessary or convenient to enable the local entity to provide a service that the local entity is authorized to provide; or

(C) a local entity is requested to provide through an interlocal agreement in accordance with Chapter 13, Interlocal Cooperation Act; and

(ii) includes facilities in an assessment area, including a private driveway, an irrigation ditch, and a water turnout, that:

(A) can be conveniently installed at the same time as an infrastructure, system, or other facility described in Subsection (25)(a)(i); and

(B) are requested by a property owner on whose property or for whose benefit the infrastructure, system, or other facility is being installed; or

(b) for a [~~local~~] special district created to assess groundwater rights in accordance with Section 17B-1-202, means a system or plan to regulate groundwater withdrawals within a specific groundwater basin in accordance with Sections 17B-1-202 and 73-5-15.

(26) "Improvement revenues":

(a) means charges, fees, impact fees, or other revenues that a local entity receives from improvements; and

(b) does not include revenue from assessments.

(27) "Incidental refunding costs" means any costs of issuing refunding assessment

bonds and calling, retiring, or paying prior bonds, including:

(a) legal and accounting fees;

(b) charges of financial advisors, escrow agents, certified public accountant verification entities, and trustees;

(c) underwriting discount costs, printing costs, the costs of giving notice;

(d) any premium necessary in the calling or retiring of prior bonds;

(e) fees to be paid to the local entity to issue the refunding assessment bonds and to refund the outstanding prior bonds;

(f) any other costs that the governing body determines are necessary and proper to incur in connection with the issuance of refunding assessment bonds; and

(g) any interest on the prior bonds that is required to be paid in connection with the issuance of the refunding assessment bonds.

(28) "Installment payment date" means the date on which an installment payment of an assessment is payable.

(29) "Interim warrant" means a warrant issued by a local entity under Section 11-42-601.

(30) "Jurisdictional boundaries" means:

(a) for a county, the boundaries of the unincorporated area of the county; and

(b) for each other local entity, the boundaries of the local entity.

[~~(31) "Local district" means a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts.~~]

[~~(32)~~] (31) "Local entity" means:

(a) a county, city, town, special service district, or [~~{ }local{ }~~] special{ } district;

(b) an interlocal entity as defined in Section 11-13-103;

(c) the military installation development authority, created in Section 63H-1-201;

(d) a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, including a public infrastructure district created by a development authority;

(e) the Utah Inland Port Authority, created in Section 11-58-201; or

(f) any other political subdivision of the state.

[~~(33)~~] (32) "Local entity obligations" means assessment bonds, refunding assessment bonds, interim warrants, and bond anticipation notes issued by a local entity.

[~~(34)~~] (33) "Mailing address" means:

(a) a property owner's last-known address using the name and address appearing on the last completed real property assessment roll of the county in which the property is located; and

(b) if the property is improved property:

(i) the property's street number; or

(ii) the post office box, rural route number, or other mailing address of the property, if a street number has not been assigned.

[~~(35)~~] (34) "Net improvement revenues" means all improvement revenues that a local entity has received since the last installment payment date, less all amounts payable by the local entity from those improvement revenues for operation and maintenance costs.

[~~(36)~~] (35) "Operation and maintenance costs":

(a) means the costs that a local entity incurs in operating and maintaining improvements in an assessment area, whether or not those improvements have been financed under this chapter; and

(b) includes service charges, administrative costs, ongoing maintenance charges, and tariffs or other charges for electrical, water, gas, or other utility usage.

[~~(37)~~] (36) "Overhead costs" means the actual costs incurred or the estimated costs to be incurred by a local entity in connection with an assessment area for appraisals, legal fees, filing fees, financial advisory charges, underwriting fees, placement fees, escrow, trustee, and paying agent fees, publishing and mailing costs, costs of levying an assessment, recording costs, and all other incidental costs.

[~~(38)~~] (37) "Prior assessment ordinance" means the ordinance levying the assessments from which the prior bonds are payable.

[~~(39)~~] (38) "Prior assessment resolution" means the resolution levying the assessments from which the prior bonds are payable.

[~~(40)~~] (39) "Prior bonds" means the assessment bonds that are refunded in part or in whole by refunding assessment bonds.

[~~(41)~~] (40) "Project engineer" means the surveyor or engineer employed by or the private consulting engineer engaged by a local entity to perform the necessary engineering services for and to supervise the construction or installation of the improvements.

[~~(42)~~] (41) "Property" includes real property and any interest in real property, including

water rights and leasehold rights.

[~~(43)~~] (42) "Property price" means the price at which a local entity purchases or acquires by eminent domain property to make improvements in an assessment area.

[~~(44)~~] (43) "Provide" or "providing," with reference to an improvement, includes the acquisition, construction, reconstruction, renovation, maintenance, repair, operation, and expansion of an improvement.

[~~(45)~~] (44) "Public agency" means:

(a) the state or any agency, department, or division of the state; and

(b) a political subdivision of the state.

[~~(46)~~] (45) "Reduced payment obligation" means the full obligation of an owner of property within an assessment area to pay an assessment levied on the property after the assessment has been reduced because of the issuance of refunding assessment bonds, as provided in Section 11-42-608.

[~~(47)~~] (46) "Refunding assessment bonds" means assessment bonds that a local entity issues under Section 11-42-607 to refund, in part or in whole, assessment bonds.

[~~(48)~~] (47) "Reserve fund" means a fund established by a local entity under Section 11-42-702.

[~~(49)~~] (48) "Service" means:

(a) water, sewer, storm drainage, garbage collection, library, recreation, communications, or electric service;

(b) economic promotion activities; or

(c) any other service that a local entity is required or authorized to provide.

[~~(50)~~] (49) (a) "Sewer assessment area" means an assessment area that has as the assessment area's primary purpose the financing and funding of public improvements to provide sewer service where there is, in the opinion of the local board of health, substantial evidence of septic system failure in the defined area due to inadequate soils, high water table, or other factors proven to cause failure.

(b) "Sewer assessment area" does not include property otherwise located within the assessment area:

(i) on which an approved conventional or advanced wastewater system has been installed during the previous five calendar years;

(ii) for which the local health department has inspected the system described in Subsection [~~(50)~~] (49)(b)(i) to ensure that the system is functioning properly; and

(iii) for which the property owner opts out of the proposed assessment area for the earlier of a period of 10 calendar years or until failure of the system described in Subsection [~~(50)~~] (49)(b)(i).

(50) "Special district" means a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts~~(.)~~

(51) "Special service district" means the same as that term is defined in Section 17D-1-102.

(52) "Unassessed benefitted government property" means property that a local entity may not assess in accordance with Section 11-42-408 but is benefitted by an improvement, operation and maintenance, or economic promotion activities.

(53) "Unimproved property" means property upon which no residential, commercial, or other building has been built.

(54) "Voluntary assessment area" means an assessment area that contains only property whose owners have voluntarily consented to an assessment.

Section 38. Section **11-42a-102** is amended to read:

11-42a-102. Definitions.

(1) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than the standards established in bin 4 Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

(2) (a) "Assessment" means the assessment that a local entity or the C-PACE district levies on private property under this chapter to cover the costs of an energy efficiency upgrade, a renewable energy system, or an electric vehicle charging infrastructure.

(b) "Assessment" does not constitute a property tax but shares the same priority lien as a property tax.

(3) "Assessment fund" means a special fund that a local entity establishes under Section 11-42a-206.

(4) "Benefitted property" means private property within an energy assessment area that directly benefits from improvements.

(5) "Bond" means an assessment bond and a refunding assessment bond.

(6) (a) "Commercial or industrial real property" means private real property used

directly or indirectly or held for one of the following purposes or activities, regardless of whether the purpose or activity is for profit:

(i) commercial;

(ii) mining;

(iii) agricultural;

(iv) industrial;

(v) manufacturing;

(vi) trade;

(vii) professional;

(viii) a private or public club;

(ix) a lodge;

(x) a business; or

(xi) a similar purpose.

(b) "Commercial or industrial real property" includes:

(i) private real property that is used as or held for dwelling purposes and contains:

(A) more than four rental units; or

(B) one or more owner-occupied or rental condominium units affiliated with a hotel; and

(ii) real property owned by:

(A) the military installation development authority, created in Section 63H-1-201; or

(B) the Utah Inland Port Authority, created in Section 11-58-201.

(7) "Contract price" means:

(a) up to 100% of the cost of installing, acquiring, refinancing, or reimbursing for an improvement, as determined by the owner of the property benefitting from the improvement; or

(b) the amount payable to one or more contractors for the assessment, design, engineering, inspection, and construction of an improvement.

(8) "C-PACE" means commercial property assessed clean energy.

(9) "C-PACE district" means the statewide authority established in Section 11-42a-106 to implement the C-PACE Act in collaboration with governing bodies, under the direction of OED.

(10) "Electric vehicle charging infrastructure" means equipment that is:

(a) permanently affixed to commercial or industrial real property; and

(b) designed to deliver electric energy to a qualifying electric vehicle or a qualifying plug-in hybrid vehicle.

(11) "Energy assessment area" means an area:

(a) within the jurisdictional boundaries of a local entity that approves an energy assessment area or, if the C-PACE district or a state interlocal entity levies the assessment, the C-PACE district or the state interlocal entity;

(b) containing only the commercial or industrial real property of owners who have voluntarily consented to an assessment under this chapter for the purpose of financing the costs of improvements that benefit property within the energy assessment area; and

(c) in which the proposed benefitted properties in the area are:

(i) contiguous; or

(ii) located on one or more contiguous or adjacent tracts of land that would be contiguous or adjacent property but for an intervening right-of-way, including a sidewalk, street, road, fixed guideway, or waterway.

(12) "Energy assessment bond" means a bond:

(a) issued under Section 11-42a-401; and

(b) payable in part or in whole from assessments levied in an energy assessment area.

(13) "Energy assessment lien" means a lien on property within an energy assessment area that arises from the levy of an assessment in accordance with Section 11-42a-301.

(14) "Energy assessment ordinance" means an ordinance that a local entity adopts under Section 11-42a-201 that:

(a) designates an energy assessment area;

(b) levies an assessment on benefitted property within the energy assessment area; and

(c) if applicable, authorizes the issuance of energy assessment bonds.

(15) "Energy assessment resolution" means one or more resolutions adopted by a local entity under Section 11-42a-201 that:

(a) designates an energy assessment area;

(b) levies an assessment on benefitted property within the energy assessment area; and

(c) if applicable, authorizes the issuance of energy assessment bonds.

(16) "Energy efficiency upgrade" means an improvement that is:

(a) permanently affixed to commercial or industrial real property; and

(b) designed to reduce energy or water consumption, including:

(i) insulation in:

(A) a wall, roof, floor, or foundation; or

(B) a heating and cooling distribution system;

(ii) a window or door, including:

(A) a storm window or door;

(B) a multiglazed window or door;

(C) a heat-absorbing window or door;

(D) a heat-reflective glazed and coated window or door;

(E) additional window or door glazing;

(F) a window or door with reduced glass area; or

(G) other window or door modifications;

(iii) an automatic energy control system;

(iv) in a building or a central plant, a heating, ventilation, or air conditioning and distribution system;

(v) caulk or weatherstripping;

(vi) a light fixture that does not increase the overall illumination of a building, unless an increase is necessary to conform with the applicable building code;

(vii) an energy recovery system;

(viii) a daylighting system;

(ix) measures to reduce the consumption of water, through conservation or more efficient use of water, including installation of:

(A) low-flow toilets and showerheads;

(B) timer or timing systems for a hot water heater; or

(C) rain catchment systems;

(x) a modified, installed, or remodeled fixture that is approved as a utility cost-saving measure by the governing body or executive of a local entity;

(xi) measures or other improvements to effect seismic upgrades;

(xii) structures, measures, or other improvements to provide automated parking or parking that reduces land use;

(xiii) the extension of an existing natural gas distribution company line;

(xiv) an energy efficient elevator, escalator, or other vertical transport device;

(xv) any other improvement that the governing body or executive of a local entity approves as an energy efficiency upgrade; or

(xvi) any improvement that relates physically or functionally to any of the improvements listed in Subsections (16)(b)(i) through (xv).

(17) "Governing body" means:

(a) for a county, city, town, or metro township, the legislative body of the county, city, town, or metro township;

(b) for a [~~local~~{ }] special{ } district, the board of trustees of the [~~local~~] special district;

(c) for a special service district:

(i) if no administrative control board has been appointed under Section 17D-1-301, the legislative body of the county, city, town, or metro township that established the special service district; or

(ii) if an administrative control board has been appointed under Section 17D-1-301, the administrative control board of the special service district;

(d) for the military installation development authority created in Section 63H-1-201, the board, as that term is defined in Section 63H-1-102; and

(e) for the Utah Inland Port Authority, created in Section 11-58-201, the board, as defined in Section 11-58-102.

(18) "Improvement" means a publicly or privately owned energy efficiency upgrade, renewable energy system, or electric vehicle charging infrastructure that:

(a) a property owner has requested; or

(b) has been or is being installed on a property for the benefit of the property owner.

(19) "Incidental refunding costs" means any costs of issuing a refunding assessment bond and calling, retiring, or paying prior bonds, including:

(a) legal and accounting fees;

(b) charges of financial advisors, escrow agents, certified public accountant verification entities, and trustees;

(c) underwriting discount costs, printing costs, and the costs of giving notice;

(d) any premium necessary in the calling or retiring of prior bonds;

(e) fees to be paid to the local entity to issue the refunding assessment bond and to refund the outstanding prior bonds;

(f) any other costs that the governing body determines are necessary and proper to incur in connection with the issuance of a refunding assessment bond; and

(g) any interest on the prior bonds that is required to be paid in connection with the issuance of the refunding assessment bond.

(20) "Installment payment date" means the date on which an installment payment of an assessment is payable.

(21) "Jurisdictional boundaries" means:

(a) for the C-PACE district or any state interlocal entity, the boundaries of the state; and

(b) for each local entity, the boundaries of the local entity.

[~~(22) "Local district" means a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts.~~]

[~~(23)~~] (22) (a) "Local entity" means:

(i) a county, city, town, or metro township;

(ii) a special service district, a [~~local~~] special district, or an interlocal entity as that term is defined in Section 11-13-103;

(iii) a state interlocal entity;

(iv) the military installation development authority, created in Section 63H-1-201;

(v) the Utah Inland Port Authority, created in Section 11-58-201; or

(vi) any political subdivision of the state.

(b) "Local entity" includes the C-PACE district solely in connection with:

(i) the designation of an energy assessment area;

(ii) the levying of an assessment; and

(iii) the assignment of an energy assessment lien to a third-party lender under Section 11-42a-302.

[~~(24)~~] (23) "Local entity obligations" means energy assessment bonds and refunding assessment bonds that a local entity issues.

[~~(25)~~] (24) "OED" means the Office of Energy Development created in Section 79-6-401.

[~~(26)~~] (25) "OEM vehicle" means the same as that term is defined in Section 19-1-402.

[~~(27)~~] (26) "Overhead costs" means the actual costs incurred or the estimated costs to be incurred in connection with an energy assessment area, including:

(a) appraisals, legal fees, filing fees, facilitation fees, and financial advisory charges;

(b) underwriting fees, placement fees, escrow fees, trustee fees, and paying agent fees;

(c) publishing and mailing costs;

(d) costs of levying an assessment;

(e) recording costs; and

(f) all other incidental costs.

[~~(28)~~] (27) "Parameters resolution" means a resolution or ordinance that a local entity adopts in accordance with Section 11-42a-201.

[~~(29)~~] (28) "Prior bonds" means the energy assessment bonds refunded in part or in whole by a refunding assessment bond.

[~~(30)~~] (29) "Prior energy assessment ordinance" means the ordinance levying the assessments from which the prior bonds are payable.

[~~(31)~~] (30) "Prior energy assessment resolution" means the resolution levying the assessments from which the prior bonds are payable.

[~~(32)~~] (31) "Property" includes real property and any interest in real property, including water rights and leasehold rights.

[~~(33)~~] (32) "Public electrical utility" means a large-scale electric utility as that term is defined in Section 54-2-1.

[~~(34)~~] (33) "Qualifying electric vehicle" means a vehicle that:

(a) meets air quality standards;

(b) is not fueled by natural gas;

(c) draws propulsion energy from a battery with at least 10 kilowatt hours of capacity; and

(d) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection [~~(34)(c)~~] (33)(c).

[~~(35)~~] (34) "Qualifying plug-in hybrid vehicle" means a vehicle that:

(a) meets air quality standards;

(b) is not fueled by natural gas or propane;

(c) has a battery capacity that meets or exceeds the battery capacity described in Subsection 30D(b)(3), Internal Revenue Code; and

(d) is fueled by a combination of electricity and:

(i) diesel fuel;

(ii) gasoline; or

(iii) a mixture of gasoline and ethanol.

[~~(36)~~] (35) "Reduced payment obligation" means the full obligation of an owner of property within an energy assessment area to pay an assessment levied on the property after the local entity has reduced the assessment because of the issuance of a refunding assessment bond, in accordance with Section 11-42a-403.

[~~(37)~~] (36) "Refunding assessment bond" means an assessment bond that a local entity issues under Section 11-42a-403 to refund, in part or in whole, energy assessment bonds.

[~~(38)~~] (37) (a) "Renewable energy system" means a product, system, device, or interacting group of devices that is permanently affixed to commercial or industrial real property not located in the certified service area of a distribution electrical cooperative, as that term is defined in Section 54-2-1, and:

(i) produces energy from renewable resources, including:

(A) a photovoltaic system;

(B) a solar thermal system;

(C) a wind system;

(D) a geothermal system, including a generation system, a direct-use system, or a ground source heat pump system;

(E) a microhydro system;

(F) a biofuel system; or

(G) any other renewable source system that the governing body of the local entity approves;

(ii) stores energy, including:

(A) a battery storage system; or

(B) any other energy storing system that the governing body or chief executive officer of a local entity approves; or

(iii) any improvement that relates physically or functionally to any of the products,

systems, or devices listed in Subsection [~~(38)(a)(i)~~] (37)(a)(i) or (ii).

(b) "Renewable energy system" does not include a system described in Subsection ~~{[}~~(38)~~{]}(37)}~~(a)(i) if the system provides energy to property outside the energy assessment area, unless the system:

(i) (A) existed before the creation of the energy assessment area; and

(B) beginning before January 1, 2017, provides energy to property outside of the area that became the energy assessment area; or

(ii) provides energy to property outside the energy assessment area under an agreement with a public electrical utility that is substantially similar to agreements for other renewable energy systems that are not funded under this chapter.

(38) "Special district" means a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts.

(39) "Special service district" means the same as that term is defined in Section 17D-1-102.

(40) "State interlocal entity" means:

(a) an interlocal entity created under Chapter 13, Interlocal Cooperation Act, by two or more counties, cities, towns, or metro townships that collectively represent at least a majority of the state's population; or

(b) an entity that another state authorized, before January 1, 2017, to issue bonds, notes, or other obligations or refunding obligations to finance or refinance projects in the state.

(41) "Third-party lender" means a trust company, savings bank, savings and loan association, bank, credit union, or any other entity that provides loans directly to property owners for improvements authorized under this chapter.

Section 39. Section **11-43-102** is amended to read:

11-43-102. Memorials by political subdivisions.

(1) As used in this section:

(a) "Political subdivision" means any county, city, town, or school district.

(b) "Political subdivision" does not [~~mean~~] include a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

(2) A political subdivision may authorize the use or donation of the political subdivision's land for the purpose of maintaining, erecting, or contributing to the erection or maintenance of a memorial to commemorate those individuals who have:

(a) participated in or have given their lives in any of the one or more wars or military conflicts in which the United States of America has been a participant; or

(b) given their lives in association with public service on behalf of the state or the political subdivision, including firefighters, peace officers, highway patrol officers, or other public servants.

(3) The use or donation of a political subdivision's land in relation to a memorial described in Subsection (2) may include:

(a) using or appropriating public funds for the purchase, development, improvement, or maintenance of public land on which a memorial is located or established;

(b) using or appropriating public funds for the erection, improvement, or maintenance of a memorial;

(c) donating or selling public land for use in relation to a memorial; or

(d) authorizing the use of a political subdivision's land for a memorial that is funded or maintained in part or in full by another public or private entity.

(4) The political subdivision may specify the form, placement, and design of a memorial that is subject to this section.

Section 40. Section **11-47-102** is amended to read:

11-47-102. Definitions.

For purposes of this chapter, "elected official" means each person elected to a county office, municipal office, school board or school district office, [~~local~~] special district office, or special service district office, but does not include judges.

Section 41. Section **11-48-101.5** is amended to read:

11-48-101.5. Definitions.

As used in this chapter:

(1) (a) "911 ambulance services" means ambulance services rendered in response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.

(b) "911 ambulance services" does not mean a seven or ten digit telephone call received directly by an ambulance provider licensed under Title 26, Chapter 8a, Utah

Emergency Medical Services System Act.

(2) "Municipality" means a city, town, or metro township.

(3) "Political subdivision" means a county, city, town, [~~local~~] special district, or [~~special~~] service{ } district.

Section 42. Section **11-48-103** is amended to read:

11-48-103. Provision of 911 ambulance services in municipalities and counties.

(1) The governing body of each municipality and county shall, subject to Title 26, Chapter 8a, Part 4, Ambulance and Paramedic Providers, ensure at least a minimum level of 911 ambulance services are provided:

(a) within the territorial limits of the municipality or county;

(b) by a ground ambulance provider, licensed by the Department of Health under Title 26, Chapter 8a, Part 4, Ambulance and Paramedic Providers; and

(c) in accordance with rules established by the State Emergency Medical Services Committee under Subsection 26-8a-104(8).

(2) A municipality or county may:

(a) subject to Subsection (3), maintain and support 911 ambulance services for the municipality's or county's own jurisdiction; or

(b) contract to:

(i) provide 911 ambulance services to any county, municipal corporation, [~~local~~] special district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency;

(ii) receive 911 ambulance services from any county, municipal corporation, [~~local~~] special district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency;

(iii) jointly provide 911 ambulance services with any county, municipal corporation, [~~local~~] special district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency; or

(iv) contribute toward the support of 911 ambulance services in any county, municipal corporation, [~~local~~] special district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency in return for 911 ambulance services.

(3) (a) A municipality or county that maintains and supports 911 ambulance services for the municipality's or county's own jurisdiction under Subsection (2)(a) shall obtain a license as a ground ambulance provider from the Department of Health under Title 26, Chapter 8a, Part 4, Ambulance and Paramedic Providers.

(b) Subsections 26-8a-405 through 26-8a-405.3 do not apply to a license described in Subsection (3)(a).

Section 43. Section **11-50-102** is amended to read:

11-50-102. Definitions.

As used in this chapter:

(1) "Annual financial report" means a comprehensive annual financial report or similar financial report required by Section 51-2a-201.

(2) "Chief administrative officer" means the chief administrative officer designated in accordance with Section 11-50-202.

(3) "Chief financial officer" means the chief financial officer designated in accordance with Section 11-50-202.

(4) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a [~~local~~] special district, the board of trustees of the [~~local~~] special district;

(c) for a school district, the local board of education; or

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the governing body of the county or municipality that created the special service district, if no administrative control board has been established under Section 17D-1-301; or

(ii) the administrative control board, if one has been established under Section 17D-1-301.

(5) (a) "Political subdivision" means any county, city, town, school district, community reinvestment agency, special improvement or taxing district, [~~local~~] special district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(b) Notwithstanding Subsection (5)(a), "political subdivision" does not mean a project entity, as defined in Section 11-13-103.

Section 44. Section **11-52-102** is amended to read:

11-52-102. Definitions.

As used in this chapter:

(1) "Federal receipts" means the federal financial assistance, as defined in 31 U.S.C. Sec. 7501, that is reported as part of a single audit.

(2) "Political subdivision" means:

(a) a county, as defined in Section 17-50-101;

(b) a municipality, as defined in Section 10-1-104;

(c) a [~~local~~] special district, as defined in Section 17B-1-102;

(d) a special service district, as defined in Section 17D-1-102;

(e) an interlocal entity, as defined in Section 11-13-103;

(f) a community reinvestment agency created under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(g) a local building authority, as defined in Section 17D-2-102; or

(h) a conservation district, as defined in Section 17D-3-102.

(3) "Single audit" has the same meaning as defined in 31 U.S.C. Sec. 7501.

Section 45. Section **11-54-102** is amended to read:

11-54-102. Definitions.

As used in this chapter:

(1) "Buyback purchaser" means a person who buys a procurement item from the local government entity to which the person previously sold the procurement item.

(2) "Excess repurchase amount" means the difference between:

(a) the amount a buyback purchaser pays to a local government entity to purchase a procurement item that the buyback purchaser previously sold to the local government entity; and

(b) the amount the local government entity paid to the buyback purchaser to purchase the procurement item.

(3) "Local government entity" means a county, city, town, metro township, [~~local~~] special district, special service district, community reinvestment agency, conservation district, or school district that is not subject to Title 63G, Chapter 6a, Utah Procurement Code.

(4) "Procurement item" means the same as that term is defined in Section 63G-6a-103.

Section 46. Section **11-55-102** is amended to read:

11-55-102. Definitions.

As used in this chapter:

(1) "Board" means the same as that term is defined in Section 63A-3-106.

(2) "Board member" means the same as that term is defined in Section 63A-3-106.

(3) "Municipality" means the same as that term is defined in Section 10-1-104.

(4) "Political subdivision" means a county, municipality, school district, limited purpose local government entity described in [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act, or Title 17D, Limited Purpose Local Government Entities - Other Entities, or an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental subdivision or public corporation.

Section 47. Section **11-57-102** is amended to read:

11-57-102. Definitions.

As used in this chapter:

(1) "Employee" means a person who is not an elected or appointed officer and who is employed on a full- or part-time basis by a political subdivision.

(2) "Officer" means a person who is elected or appointed to an office or position within a political subdivision.

(3) (a) "Personal use expenditure" means an expenditure made without the authority of law that:

(i) is not directly related to the performance of an activity as an officer or employee of a political subdivision;

(ii) primarily furthers a personal interest of an officer or employee of a political subdivision or the family, a friend, or an associate of an officer or employee of a political subdivision; and

(iii) would constitute taxable income under federal law.

(b) "Personal use expenditure" does not include:

(i) a de minimis or incidental expenditure;

(ii) a monthly vehicle allowance; or

(iii) a government vehicle that an officer or employee uses to travel to and from the officer or employee's official duties, including an allowance for personal use as provided by a written policy of the political subdivision.

(4) "Political subdivision" means any county, city, town, school district, community reinvestment agency, special improvement or taxing district, [~~local~~] special district, special service district, entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(5) "Public funds" means the same as that term is defined in Section 51-7-3.

Section 48. Section **11-58-102** is amended to read:

11-58-102. Definitions.

As used in this chapter:

(1) "Authority" means the Utah Inland Port Authority, created in Section 11-58-201.

(2) "Authority jurisdictional land" means land within the authority boundary delineated:

(a) in the electronic shapefile that is the electronic component of H.B. 2001, Utah Inland Port Authority Amendments, 2018 Second Special Session; and

(b) beginning April 1, 2020, as provided in Subsection 11-58-202(3).

(3) "Base taxable value" means:

(a) (i) except as provided in Subsection (3)(a)(ii), for a project area that consists of the authority jurisdictional land, the taxable value of authority jurisdictional land in calendar year 2018; and

(ii) for an area described in Subsection 11-58-601(5), the taxable value of that area in calendar year 2017; or

(b) for a project area that consists of land outside the authority jurisdictional land, the taxable value of property within any portion of a project area, as designated by board resolution, from which the property tax differential will be collected, as shown upon the assessment roll last equalized before the year in which the authority adopts a project area plan for that area.

(4) "Board" means the authority's governing body, created in Section 11-58-301.

(5) "Business plan" means a plan designed to facilitate, encourage, and bring about development of the authority jurisdictional land to achieve the goals and objectives described

in Subsection 11-58-203(1), including the development and establishment of an inland port.

(6) "Development" means:

(a) the demolition, construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including public infrastructure and improvements; and

(b) the planning of, arranging for, or participation in any of the activities listed in Subsection (6)(a).

(7) "Development project" means a project for the development of land within a project area.

(8) "Inland port" means one or more sites that:

(a) contain multimodal facilities, intermodal facilities, or other facilities that:

(i) are related but may be separately owned and managed; and

(ii) together are intended to:

(A) allow global trade to be processed and altered by value-added services as goods move through the supply chain;

(B) provide a regional merging point for transportation modes for the distribution of goods to and from ports and other locations in other regions;

(C) provide cargo-handling services to allow freight consolidation and distribution, temporary storage, customs clearance, and connection between transport modes; and

(D) provide international logistics and distribution services, including freight forwarding, customs brokerage, integrated logistics, and information systems; and

(b) may include a satellite customs clearance terminal, an intermodal facility, a customs pre-clearance for international trade, or other facilities that facilitate, encourage, and enhance regional, national, and international trade.

(9) "Inland port use" means a use of land:

(a) for an inland port;

(b) that directly implements or furthers the purposes of an inland port, as stated in Subsection (8);

(c) that complements or supports the purposes of an inland port, as stated in Subsection (8); or

(d) that depends upon the presence of the inland port for the viability of the use.

(10) "Intermodal facility" means a facility for transferring containerized cargo between rail, truck, air, or other transportation modes.

(11) "Multimodal facility" means a hub or other facility for trade combining any combination of rail, trucking, air cargo, and other transportation services.

(12) "Nonvoting member" means an individual appointed as a member of the board under Subsection 11-58-302(3) who does not have the power to vote on matters of authority business.

(13) "Project area" means:

(a) the authority jurisdictional land; or

(b) land outside the authority jurisdictional land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

(14) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to the project area.

(15) "Project area plan" means a written plan that, after its effective date, guides and controls the development within a project area.

(16) "Property tax" includes a privilege tax and each levy on an ad valorem basis on tangible or intangible personal or real property.

(17) "Property tax differential":

(a) means the difference between:

(i) the amount of property tax revenues generated each tax year by all taxing entities from a project area, using the current assessed value of the property; and

(ii) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property; and

(b) does not include property tax revenue from:

(i) a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602;

(ii) a judgment levy imposed by a taxing entity under Section 59-2-1328 or 59-2-1330; or

(iii) a levy imposed by a taxing entity under Section 11-14-310 to pay for a general

obligation bond.

(18) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, metro township, school district, [~~local~~] special district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state, including the authority.

(19) "Public infrastructure and improvements":

(a) means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public; and

(ii) (A) are owned by a public entity or a utility; or

(B) are publicly maintained or operated by a public entity;

(b) includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service;

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, rail lines, intermodal facilities, multimodal facilities, and public transportation facilities;

(iii) an inland port; and

(iv) infrastructure, improvements, facilities, or buildings that:

(A) are privately owned;

(B) benefit the public;

(C) as determined by the board, provide a substantial benefit to the development and operation of a project area; and

(D) are built according to the applicable county or municipal design and safety standards for public infrastructure.

(20) "Shapefile" means the digital vector storage format for storing geometric location and associated attribute information.

(21) "Taxable value" means the value of property as shown on the last equalized assessment roll.

(22) "Taxing entity":

(a) means a public entity that levies a tax on property within a project area; and

(b) does not include a public infrastructure district that the authority creates under Title 17D, Chapter 4, Public Infrastructure District Act.

(23) "Voting member" means an individual appointed or designated as a member of the board under Subsection 11-58-302(2).

Section 49. Section **11-58-205** is amended to read:

11-58-205. Applicability of other law -- Cooperation of state and local governments -- Municipality to consider board input -- Prohibition relating to natural resources -- Inland port as permitted or conditional use -- Municipal services -- Disclosure by nonauthority governing body member.

(1) Except as otherwise provided in this chapter, the authority does not have and may not exercise any powers relating to the regulation of land uses on the authority jurisdictional land.

(2) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(3) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the board requests that is reasonably necessary to help the authority fulfill its duties and responsibilities under this chapter.

(4) In making decisions affecting the authority jurisdictional land, the legislative body of a municipality in which the authority jurisdictional land is located shall consider input from the authority board.

(5) (a) No later than December 31, 2018, the ordinances of a municipality with authority jurisdictional land within its boundary shall allow an inland port as a permitted or conditional use, subject to standards that are:

(i) determined by the municipality; and

(ii) consistent with the policies and objectives stated in Subsection 11-58-203(1).

(b) A municipality whose ordinances do not comply with Subsection (5)(a) within the time prescribed in that subsection shall allow an inland port as a permitted use without regard

to any contrary provision in the municipality's land use ordinances.

(6) The transporting, unloading, loading, transfer, or temporary storage of natural resources may not be prohibited on the authority jurisdictional land.

(7) (a) A municipality whose boundary includes authority jurisdictional land shall provide the same municipal services to the area of the municipality that is within the authority jurisdictional land as the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(b) The level and quality of municipal services that a municipality provides within authority jurisdictional land shall be fairly and reasonably consistent with the level and quality of municipal services that the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(8) (a) As used in this Subsection (8):

(i) "Direct financial benefit" means the same as that term is defined in Section 11-58-304.

(ii) "Nonauthority governing body member" means a member of the board or other body that has authority to make decisions for a nonauthority government owner.

(iii) "Nonauthority government owner" mean a state agency or nonauthority local government entity that owns land that is part of the authority jurisdictional land.

(iv) "Nonauthority local government entity":

(A) means a county, city, town, metro township, [~~local~~] special district, special service district, community reinvestment agency, or other political subdivision of the state; and

(B) excludes the authority.

(v) "State agency" means a department, division, or other agency or instrumentality of the state, including an independent state agency.

(b) A nonauthority governing body member who owns or has a financial interest in land that is part of the authority jurisdictional land or who reasonably expects to receive a direct financial benefit from development of authority jurisdictional land shall submit a written disclosure to the authority board and the nonauthority government owner.

(c) A written disclosure under Subsection (8)(b) shall describe, as applicable:

(i) the nonauthority governing body member's ownership or financial interest in property that is part of the authority jurisdictional land; and

(ii) the direct financial benefit the nonauthority governing body member expects to receive from development of authority jurisdictional land.

(d) A nonauthority governing body member required under Subsection (8)(b) to submit a written disclosure shall submit the disclosure no later than 30 days after:

(i) the nonauthority governing body member:

(A) acquires an ownership or financial interest in property that is part of the authority jurisdictional land; or

(B) first knows that the nonauthority governing body member expects to receive a direct financial benefit from the development of authority jurisdictional land; or

(ii) the effective date of this Subsection (8), if that date is later than the period described in Subsection (8)(d)(i).

(e) A written disclosure submitted under this Subsection (8) is a public record.

(9) No later than December 31, 2022, a primary municipality, as defined in Section 11-58-601, shall enter into an agreement with the authority under which the primary municipality agrees to facilitate the efficient processing of land use applications, as defined in Section 10-9a-103, relating to authority jurisdictional land within the primary municipality, including providing for at least one full-time employee as a single point of contact for the processing of those land use applications.

Section 50. Section **11-59-102** is amended to read:

11-59-102. Definitions.

As used in this chapter:

(1) "Authority" means the Point of the Mountain State Land Authority, created in Section 11-59-201.

(2) "Board" means the authority's board, created in Section 11-59-301.

(3) "Development":

(a) means the construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including:

(i) the demolition or preservation or repurposing of a building, infrastructure, or other facility;

(ii) surveying, testing, locating existing utilities and other infrastructure, and other

preliminary site work; and

(iii) any associated planning, design, engineering, and related activities; and

(b) includes all activities associated with:

(i) marketing and business recruiting activities and efforts;

(ii) leasing, or selling or otherwise disposing of, all or any part of the point of the mountain state land; and

(iii) planning and funding for mass transit infrastructure to service the point of the mountain state land.

(4) "New correctional facility" means the state correctional facility being developed in Salt Lake City to replace the state correctional facility in Draper.

(5) "Point of the mountain state land" means the approximately 700 acres of state-owned land in Draper, including land used for the operation of a state correctional facility until completion of the new correctional facility and state-owned land in the vicinity of the current state correctional facility.

(6) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, metro township, school district, [~~local~~] special district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state, including the authority.

(7) "Publicly owned infrastructure and improvements":

(a) means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public; and

(ii) (A) are owned by a public entity or a utility; or

(B) are publicly maintained or operated by a public entity; and

(b) includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service;

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, and public transportation facilities; and

(iii) greenspace, parks, trails, recreational amenities, or other similar facilities.

(8) "Taxing entity" means the same as that term is defined in Section 59-2-102.

Section 51. Section **11-59-204** is amended to read:

11-59-204. Applicability of other law -- Coordination with municipality.

(1) The authority and the point of the mountain state land are not subject to:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; or

(b) the jurisdiction of a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, except to the extent that:

(i) some or all of the point of the mountain state land is, on May 8, 2018, included within the boundary of a [~~local~~] special district or special service district; and

(ii) the authority elects to receive service from the [~~local~~] special district or special service district for the point of the mountain state land that is included within the boundary of the [~~local~~] special district or special service district, respectively.

(2) In formulating and implementing a development plan for the point of the mountain state land, the authority shall consult with officials of the municipality within which the point of the mountain state land is located on planning and zoning matters.

(3) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(4) Nothing in this chapter may be construed to remove the point of the mountain state land from the service area of the municipality in which the point of the mountain state land is located, for purposes of water, sewer, and other similar municipal services currently being provided.

(5) The authority is subject to Title 52, Chapter 4, Open and Public Meetings Act, except that for an electronic meeting of the authority board that otherwise complies with Section 52-4-207, the authority board:

(a) is not required to establish an anchor location; and

(b) may convene and conduct the meeting without the written determination otherwise required under Subsection 52-4-207(4).

Section 52. Section **11-60-102** is amended to read:

11-60-102. Definitions.

As used in this chapter:

(1) "Direct charge" means a charge, fee, assessment, or amount, other than a property tax, that a political subdivision charges to a property owner.

(2) "Nonrecurring tax notice charge" means a tax notice charge that a political subdivision certifies to the county treasurer on a one-time or case-by-case basis rather than regularly over multiple calendar years.

(3) "Notice of lien" means a notice that:

(a) a political subdivision records in the office of the recorder of the county in which a property that is the subject of a nonrecurring tax notice charge is located; and

(b) describes the nature and amount of the nonrecurring tax notice charge and whether the political subdivision intends to certify the charge to the county treasurer under statutory authority that allows the treasurer to place the charge on the property tax notice described in Section 59-2-1317.

(4) "Political subdivision" means:

(a) a county, as that term is defined in Section 17-50-101;

(b) a municipality, as that term is defined in Section 10-1-104;

(c) a [~~local~~] special district, as that term is defined in Section 17B-1-102;

(d) a special service district, as that term is defined in Section 17D-1-102;

(e) an interlocal entity, as that term is defined in Section 11-13-103;

(f) a community reinvestment agency created under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(g) a local building authority, as that term is defined in Section 17D-2-102;

(h) a conservation district, as that term is defined in Section 17D-3-102; or

(i) a local entity, as that term is defined in Sections 11-42-102 and 11-42a-102.

(5) "Political subdivision lien" means a lien that a statute expressly authorizes a political subdivision to hold and record, including a direct charge that constitutes, according to an express statutory provision, a lien.

(6) "Property tax" means a tax imposed on real property under Title 59, Chapter 2, Property Tax Act, Title 59, Chapter 3, Tax Equivalent Property Act, or Title 59, Chapter 4,

Privilege Tax.

(7) "Tax notice charge" means the same as that term is defined in Section 59-2-1301.5.

(8) "Tax sale" means the tax sale described in Title 59, Chapter 2, Part 13, Collection of Taxes.

Section 53. Section **11-61-102** is amended to read:

11-61-102. Definitions.

As used in this chapter:

(1) "Expressive activity" means:

(a) peacefully assembling, protesting, or speaking;

(b) distributing literature;

(c) carrying a sign; or

(d) signature gathering or circulating a petition.

(2) "Generally applicable time, place, and manner restriction" means a content-neutral ordinance, policy, practice, or other action that:

(a) by its clear language and intent, restricts or infringes on expressive activity;

(b) applies generally to any person; and

(c) is not an individually applicable time, place, and manner restriction.

(3) (a) "Individually applicable time, place, and manner restriction" means a content-neutral policy, practice, or other action:

(i) that restricts or infringes on expressive activity; and

(ii) that a political subdivision applies:

(A) on a case-by-case basis;

(B) to a specifically identified person or group of persons; and

(C) regarding a specifically identified place and time.

(b) "Individually applicable time, place, and manner restriction" includes a restriction placed on expressive activity as a condition to obtain a permit.

(4) (a) "Political subdivision" means a county, city, town, or metro township.

(b) "Political subdivision" does not mean:

(i) a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts;

(ii) a special service district under Title 17D, Chapter 1, Special Service District Act; or

(iii) a school district under Title 53G, Chapter 3, School District Creation and Change.

(5) (a) "Public building" means a building or permanent structure that is:

(i) owned, leased, or occupied by a political subdivision or a subunit of a political subdivision;

(ii) open to public access in whole or in part; and

(iii) used for public education or political subdivision activities.

(b) "Public building" does not mean:

(i) a building owned or leased by a political subdivision or a subunit of a political subdivision:

(A) that is closed to public access;

(B) where state or federal law restricts expressive activity; or

(C) when the building is used by a person, in whole or in part, for a private function; or

(ii) a public school.

(6) (a) "Public grounds" means the area outside a public building that is a traditional public forum where members of the public may safely gather to engage in expressive activity.

(b) "Public grounds" includes sidewalks, streets, and parks.

(c) "Public grounds" does not include the interior of a public building.

Section 54. Section **11-65-101** is amended to read:

11-65-101. Definitions.

As used in this chapter:

(1) "Adjacent political subdivision" means a political subdivision of the state with a boundary that abuts the lake authority boundary or includes lake authority land.

(2) "Board" means the lake authority's governing body, created in Section 11-65-301.

(3) "Lake authority" means the Utah Lake Authority, created in Section 11-65-201.

(4) "Lake authority boundary" means the boundary:

(a) defined by recorded boundary settlement agreements between private landowners and the Division of Forestry, Fire, and State Lands; and

(b) that separates privately owned land from Utah Lake sovereign land.

(5) "Lake authority land" means land on the lake side of the lake authority boundary.

(6) "Management" means work to coordinate and facilitate the improvement of Utah Lake, including work to enhance the long-term viability and health of Utah Lake and to produce economic, aesthetic, recreational, environmental, and other benefits for the state, consistent with the strategies, policies, and objectives described in this chapter.

(7) "Management plan" means a plan to conceptualize, design, facilitate, coordinate, encourage, and bring about the management of the lake authority land to achieve the policies and objectives described in Section 11-65-203.

(8) "Nonvoting member" means an individual appointed as a member of the board under Subsection 11-65-302(6) who does not have the power to vote on matters of lake authority business.

(9) "Project area" means an area that is identified in a project area plan as the area where the management described in the project area plan will occur.

(10) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area.

(11) "Project area plan" means a written plan that, after the plan's effective date, manages activity within a project area within the scope of a management plan.

(12) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, metro township, school district, [~~local~~] special district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state.

(13) "Publicly owned infrastructure and improvements":

(a) means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public; and

(ii) (A) are owned by a public entity or a utility; or

(B) are publicly maintained or operated by a public entity;

(b) includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service; and

(ii) streets, roads, curbs, gutters, sidewalks, walkways, solid waste facilities, parking facilities, and public transportation facilities.

(14) "Sovereign land" means land:

(a) lying below the ordinary high water mark of a navigable body of water at the date of statehood; and

(b) owned by the state by virtue of the state's sovereignty.

(15) "Utah Lake" includes all waters of Utah Lake and all land, whether or not submerged under water, within the lake authority boundary.

(16) "Voting member" means an individual appointed as a member of the board under Subsection 11-65-302(2).

Section 55. Section **13-8-5** is amended to read:

13-8-5. Definitions -- Limitation on retention proceeds withheld -- Deposit in interest-bearing escrow account -- Release of proceeds -- Payment to subcontractors -- Penalty -- No waiver.

(1) As used in this section:

(a) (i) "Construction contract" means a written agreement between the parties relative to the design, construction, alteration, repair, or maintenance of a building, structure, highway, appurtenance, appliance, or other improvements to real property, including moving, demolition, and excavating for nonresidential commercial or industrial construction projects.

(ii) If the construction contract is for construction of a project that is part residential and part nonresidential, this section applies only to that portion of the construction project that is nonresidential as determined pro rata based on the percentage of the total square footage of the project that is nonresidential.

(b) "Construction lender" means any person, including a bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, small loan company, sales finance company, investment company, or any other financial institution that advances money to a borrower for the purpose of making alterations or improvements to real property. A construction lender does not include a person or entity who is acting in the capacity of contractor, original contractor, or subcontractor.

(c) "Construction project" means an improvement to real property that is the subject of

a construction contract.

(d) "Contractor" means a person who, for compensation other than wages as an employee, undertakes any work in a construction trade, as defined in Section 58-55-102 and includes:

(i) any person engaged as a maintenance person who regularly engages in activities set forth in Section 58-55-102 as a construction trade; or

(ii) a construction manager who performs management and counseling services on a construction project for a fee.

(e) "Original contractor" means the same as that term is defined in Section 38-1a-102.

(f) "Owner" means the person who holds any legal or equitable title or interest in property. Owner does not include a construction lender unless the construction lender has an ownership interest in the property other than solely as a construction lender.

(g) "Public agency" means any state agency or a county, city, town, school district, [~~local~~] special district, special service district, or other political subdivision of the state that enters into a construction contract for an improvement of public property.

(h) "Retention payment" means release of retention proceeds as defined in Subsection (1)(i).

(i) "Retention proceeds" means money earned by a contractor or subcontractor but retained by the owner or public agency pursuant to the terms of a construction contract to guarantee payment or performance by the contractor or subcontractor of the construction contract.

(j) "Subcontractor" means the same as that term is defined in Section 38-1a-102.

(2) (a) This section is applicable to all construction contracts relating to construction work or improvements entered into on or after July 1, 1999, between:

(i) an owner or public agency and an original contractor;

(ii) an original contractor and a subcontractor; and

(iii) subcontractors under a contract described in Subsection (2)(a)(i) or (ii).

(b) This section does not apply to a construction lender.

(3) (a) Notwithstanding Section 58-55-603, the retention proceeds withheld and retained from any payment due under the terms of the construction contract may not exceed 5% of the payment:

(i) by the owner or public agency to the original contractor;

(ii) by the original contractor to any subcontractor; or

(iii) by a subcontractor.

(b) The total retention proceeds withheld may not exceed 5% of the total construction price.

(c) The percentage of the retention proceeds withheld and retained pursuant to a construction contract between the original contractor and a subcontractor or between subcontractors shall be the same retention percentage as between the owner and the original contractor if:

(i) the retention percentage in the original construction contract between an owner and the original contractor is less than 5%; or

(ii) after the original construction contract is executed but before completion of the construction contract the retention percentage is reduced to less than 5%.

(4) (a) If any payment on a contract with a private contractor, firm, or corporation to do work for an owner or public agency is retained or withheld by the owner or the public agency, as retention proceeds, it shall be placed in an interest-bearing account and accounted for separately from other amounts paid under the contract.

(b) The interest accrued under Subsection (4)(a) shall be:

(i) for the benefit of the contractor and subcontractors; and

(ii) paid after the project is completed and accepted by the owner or the public agency.

(c) The contractor shall ensure that any interest accrued on the retainage is distributed by the contractor to subcontractors on a pro rata basis.

(d) Retention proceeds and accrued interest retained by an owner or public agency:

(i) are considered to be in a constructive trust for the benefit of the contractor and subcontractors who have earned the proceeds; and

(ii) are not subject to assignment, encumbrance, attachment, garnishment, or execution levy for the debt of any person holding the retention proceeds and accrued interest.

(5) Any retention proceeds retained or withheld pursuant to this section and any accrued interest shall be released pursuant to a billing statement from the contractor within 45 days from the later of:

(a) the date the owner or public agency receives the billing statement from the

contractor;

(b) the date that a certificate of occupancy or final acceptance notice is issued to:

(i) the original contractor who obtained the building permit from the building inspector or public agency;

(ii) the owner or architect; or

(iii) the public agency;

(c) the date that a public agency or building inspector that has the authority to issue a certificate of occupancy does not issue the certificate but permits partial or complete occupancy or use of a construction project; or

(d) the date the contractor accepts the final pay quantities.

(6) If only partial occupancy of a construction project is permitted, any retention proceeds withheld and retained pursuant to this section and any accrued interest shall be partially released within 45 days under the same conditions as provided in Subsection (5) in direct proportion to the value of the part of the construction project occupied or used.

(7) The billing statement from the contractor as provided in Subsection (5)(a) shall include documentation of lien releases or waivers.

(8) (a) Notwithstanding Subsection (3):

(i) if a contractor or subcontractor is in default or breach of the terms and conditions of the construction contract documents, plans, or specifications governing construction of the project, the owner or public agency may withhold from payment for as long as reasonably necessary an amount necessary to cure the breach or default of the contractor or subcontractor; or

(ii) if a project or a portion of the project has been substantially completed, the owner or public agency may retain until completion up to twice the fair market value of the work of the original contractor or of any subcontractor that has not been completed:

(A) in accordance with the construction contract documents, plans, and specifications; or

(B) in the absence of plans and specifications, to generally accepted craft standards.

(b) An owner or public agency that refuses payment under Subsection (8)(a) shall describe in writing within 45 days of withholding such amounts what portion of the work was not completed according to the standards specified in Subsection (8)(a).

(9) (a) Except as provided in Subsection (9)(b), an original contractor or subcontractor who receives retention proceeds shall pay each of its subcontractors from whom retention has been withheld each subcontractor's share of the retention received within 10 days from the day that all or any portion of the retention proceeds is received:

(i) by the original contractor from the owner or public agency; or

(ii) by the subcontractor from:

(A) the original contractor; or

(B) a subcontractor.

(b) Notwithstanding Subsection (9)(a), if a retention payment received by the original contractor is specifically designated for a particular subcontractor, payment of the retention shall be made to the designated subcontractor.

(10) (a) In any action for the collection of the retained proceeds withheld and retained in violation of this section, the successful party is entitled to:

(i) attorney fees; and

(ii) other allowable costs.

(b) (i) Any owner, public agency, original contractor, or subcontractor who knowingly and wrongfully withholds a retention shall be subject to a charge of 2% per month on the improperly withheld amount, in addition to any interest otherwise due.

(ii) The charge described in Subsection (10)(b)(i) shall be paid to the contractor or subcontractor from whom the retention proceeds have been wrongfully withheld.

(11) A party to a construction contract may not require any other party to waive any provision of this section.

Section 56. Section **14-1-18** is amended to read:

14-1-18. Definitions -- Application of Procurement Code to payment and performance bonds.

(1) (a) For purposes of this chapter, "political subdivision" means any county, city, town, school district, [~~local~~] special district, special service district, community reinvestment agency, public corporation, institution of higher education of the state, public agency of any political subdivision, and, to the extent provided by law, any other entity which expends public funds for construction.

(b) For purposes of applying Section 63G-6a-1103 to a political subdivision, "state"

includes "political subdivision."

(2) Notwithstanding any provision of Title 63G, Chapter 6a, Utah Procurement Code, to the contrary, Section 63G-6a-1103 applies to all contracts for the construction, alteration, or repair of any public building or public work of the state or a political subdivision of the state.

Section 57. Section **15-7-2** is amended to read:

15-7-2. Definitions.

As used in this chapter:

(1) "Authorized officer" means any individual required or permitted by any law or by the issuing public entity to execute on behalf of the public entity, a certificated registered public obligation or a writing relating to an uncertificated registered public obligation.

(2) "Certificated registered public obligation" means a registered public obligation which is represented by an instrument.

(3) "Code" means the Internal Revenue Code of 1954.

(4) "Facsimile seal" means the reproduction by engraving, imprinting, stamping, or other means of the seal of the issuer, official, or official body.

(5) "Facsimile signature" means the reproduction by engraving, imprinting, stamping, or other means of a manual signature.

(6) "Financial intermediary" means a bank, broker, clearing corporation or other person, or the nominee of any of them, which in the ordinary course of its business maintains registered public obligation accounts for its customers.

(7) "Issuer" means a public entity which issues an obligation.

(8) "Obligation" means an agreement by a public entity to pay principal and any interest on the obligation, whether in the form of a contract to repay borrowed money, a lease, an installment purchase agreement, or otherwise, and includes a share, participation, or other interest in any such agreement.

(9) "Official" or "official body" means the person or group of persons that is empowered to provide for the original issuance of an obligation of the issuer, by defining the obligation and its terms, conditions, and other incidents, or to perform duties with respect to a registered public obligation and any successor of such person or group of persons.

(10) "Official actions" means the actions by statute, order, ordinance, resolution, contract, or other authorized means by which the issuer provides for issuance of a registered

public obligation.

(11) "Public entity" means any entity, department, or agency which is empowered under the laws of one or more states, territories, possessions of the United States or the District of Columbia, including this state, to issue obligations any interest with respect to which may, under any provision of law, be provided an exemption from the income tax referred to in the Code. The term "public entity" includes, without limitation, this state, an entity deriving powers from and acting pursuant to a state constitution or legislative act, a county, city, town, a municipal corporation, a quasi-municipal corporation, a state university or college, a school district, a special service district, a [~~local~~] special district, a separate legal or administrative entity created under the Interlocal Cooperation Act or other joint agreement entity, a community reinvestment agency, any other political subdivision, a public authority or public agency, a public trust, a nonprofit corporation, or other organizations.

(12) "Registered public obligation" means an obligation issued by a public entity which is issued pursuant to a system of registration.

(13) "System of registration" and its variants means a plan that provides:

(a) with respect to a certificated registered public obligation, that:

(i) the certificated registered public obligation specifies a person entitled to the registered public obligation and the rights it represents; and

(ii) transfer of the certificated registered public obligation and the rights it represents may be registered upon books maintained for that purpose by or on behalf of the issuer; and

(b) with respect to an uncertificated registered public obligation, that:

(i) books maintained by or on behalf of the issuer for the purpose of registration of the transfer of a registered public obligation specify a person entitled to the registered public obligation and the rights evidenced by it; and

(ii) transfer of the uncertificated registered public obligation and the rights evidenced by it be registered upon such books.

(14) "Uncertificated registered public obligation" means a registered public obligation which is not represented by an instrument.

Section 58. Section **19-3-301** is amended to read:

19-3-301. Restrictions on nuclear waste placement in state.

(1) The placement, including transfer, storage, decay in storage, treatment, or disposal,

within the exterior boundaries of Utah of high-level nuclear waste or greater than class C radioactive waste is prohibited.

(2) Notwithstanding Subsection (1) the governor, after consultation with the county executive and county legislative body of the affected county and with concurrence of the Legislature, may specifically approve the placement as provided in this part, but only if:

(a) (i) the federal Nuclear Regulatory Commission issues a license, pursuant to the Nuclear Waste Policy Act, 42 U.S.C.A. 10101 et seq., or the Atomic Energy Act, 42 U.S.C.A. 2011 et seq., for the placement within the exterior boundaries of Utah of high-level nuclear waste or greater than class C radioactive waste; and

(ii) the authority of the federal Nuclear Regulatory Commission to grant a license under Subsection (2)(a)(i) is clearly upheld by a final judgment of a court of competent jurisdiction; or

(b) an agency of the federal government is transporting the waste, and all state and federal requirements to proceed with the transportation have been met.

(3) The requirement for the approval of a final court of competent jurisdiction shall be met in all of the following categories, in order for a state license proceeding regarding waste to begin:

(a) transfer or transportation, by rail, truck, or other mechanisms;

(b) storage, including any temporary storage at a site away from the generating reactor;

(c) decay in storage;

(d) treatment; and

(e) disposal.

(4) (a) Upon satisfaction of the requirements of Subsection (2)(a), for each category listed in Subsection (3), or satisfaction of the requirements under Subsection (2)(b), the governor, with the concurrence of the attorney general, shall certify in writing to the executive director of the Department of Environmental Quality that all of the requirements have been met, and that any necessary state licensing processes may begin.

(b) Separate certification under this Subsection (4) shall be given for each category in Subsection (3).

(5) (a) The department shall make, by rule, a determination of the dollar amount of the health and economic costs expected to result from a reasonably foreseeable accidental release

of waste involving a transfer facility or storage facility, or during transportation of waste, within the exterior boundaries of the state. The department may initiate rulemaking under this Subsection (5)(a) on or after March 15, 2001.

(b) (i) The department shall also determine the dollar amount currently available to cover the costs as determined in Subsection (5)(a):

(A) under nuclear industry self-insurance;

(B) under federal insurance requirements; and

(C) in federal money.

(ii) The department may not include any calculations of federal money that may be appropriated in the future in determining the amount under Subsection (5)(b)(i).

(c) The department shall use the information compiled under Subsections (5)(a) and (b) to determine the amount of unfunded potential liability in the event of a release of waste from a storage or transfer facility, or a release during the transportation of waste.

(6) (a) State agencies may not, for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility, or to any organization engaged in the transportation of waste, enter into any contracts or any other agreements prior to:

(i) the satisfaction of the conditions in Subsection (4); and

(ii) the executive director of the department having certified that the requirements of Sections 19-3-304 through 19-3-308 have been met for the purposes of a license application proceeding for a storage facility or transfer facility.

(b) Political subdivisions of the state may not enter into any contracts or any other agreements for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility, or to any organization engaged in the transportation of waste.

(c) This Subsection (6) does not prohibit a state agency from exercising the regulatory authority granted to it by law.

(7) (a) Notwithstanding any other provision of law, any political subdivision may not be formed pursuant to the laws of Utah for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility prior to the satisfaction of the conditions in Subsection (4). These political subdivisions include:

(i) a cooperative;

(ii) a [~~local~~] special district authorized by [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts;

(iii) a special service district under Title 17D, Chapter 1, Special Service District Act;

(iv) a limited purpose local governmental entity authorized by Title 17, Counties;

(v) any joint power agreement authorized by Title 11, Cities, Counties, and Local Taxing Units; and

(vi) the formation of a municipality, or any authority of a municipality authorized by Title 10, Utah Municipal Code.

(b) (i) Subsection (7)(a) shall be strictly interpreted. Any political subdivision authorized and formed under the laws of the state on or after March 15, 2001, which subsequently contracts to, or in any manner agrees to provide, or does provide goods, services, or municipal-type services to a storage facility or transfer facility is formed in violation of Subsection (7)(a).

(ii) If the conditions of Subsection (7)(b)(i) apply, the persons who formed the political subdivision are considered to have knowingly violated a provision of this part, and the penalties of Section 19-3-312 apply.

(8) (a) An organization may not be formed for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility prior to:

(i) the satisfaction of the conditions in Subsection (4); and

(ii) the executive director of the department having certified that the requirements of Sections 19-3-304 through 19-3-308 have been met.

(b) A foreign organization may not be registered to do business in the state for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility prior to:

(i) the satisfaction of the conditions in Subsection (4); and

(ii) the executive director of the department having certified that the requirements of Sections 19-3-304 through 19-3-308 have been met.

(c) The prohibitions of Subsections (8)(a) and (b) shall be strictly applied, and:

(i) the formation of a new organization or registration of a foreign organization within the state, any of whose purposes are to provide goods, services, or municipal-type services to a

storage facility or transfer facility may not be licensed or registered in the state, and the local or foreign organization is void and does not have authority to operate within the state;

(ii) any organization which is formed or registered on or after March 15, 2001, and which subsequently contracts to, or in any manner agrees to provide, or does provide goods, services, or municipal-type services to a storage facility or transfer facility has been formed or registered in violation of Subsection (8)(a) or (b) respectively; and

(iii) if the conditions of Subsection (8)(c)(ii) apply, the persons who formed the organization or the principals of the foreign organization, are considered to have knowingly violated a provision of this part, and are subject to the penalties in Section 19-3-312.

(9) (a) (i) Any contract or agreement to provide any goods, services, or municipal-type services to any organization engaging in, or attempting to engage in the placement of high-level nuclear waste or greater than class C radioactive waste at a storage facility or transfer facility within the state are declared to be against the greater public interest, health, and welfare of the state, by promoting an activity which has the great potential to cause extreme public harm.

(ii) These contracts or agreements under Subsection (9)(a)(i), whether formal or informal, are declared to be void from inception, agreement, or execution as against public policy.

(b) (i) Any contract or other agreement to provide goods, services, or municipal-type services to storage or transfer facilities may not be executed within the state.

(ii) Any contract or other agreement, existing or executed on or after March 15, 2001, is considered void from the time of agreement or execution.

(10) (a) All contracts and agreements under Subsection (10)(b) are assessed an annual transaction fee of 75% of the gross value of the contract to the party providing the goods, services, or municipal-type services to the storage facility or transfer facility or transportation entity. The fee shall be assessed per calendar year, and is payable on a prorated basis on or before the last day of each month in accordance with rules established under Subsection (10)(d), and as follows:

(i) 25% of the gross value of the contract to the department; and

(ii) 50% of the gross value of the contract to the Department of Cultural and Community Engagement, to be used by the Utah Division of Indian Affairs as provided in Subsection (11).

(b) Contracts and agreements subject to the fee under Subsection (10)(a) are those contracts and agreements to provide goods, services, or municipal-type services to a storage or transfer facility, or to any organization engaged in the transportation of high-level nuclear waste or greater than class C radioactive waste to a transfer facility or storage facility, and which:

(i) are in existence on March 15, 2001; or

(ii) become effective notwithstanding Subsection (9)(a).

(c) Any governmental agency which regulates the charges to consumers for services provided by utilities or other organizations shall require the regulated utility or organization to include the fees under Subsection (10)(a) in the rates charged to the purchaser of the goods, services, or municipal-type services affected by Subsection (10)(b).

(d) (i) The department, in consultation with the State Tax Commission, shall establish rules for the valuation of the contracts and assessment and collection of the fees, and other rules as necessary to determine the amount of and collection of the fee under Subsection (10)(a). The department may initiate rulemaking under this Subsection (10)(d)(i) on or after March 15, 2001.

(ii) Persons and organizations holding contracts affected by Subsection (10)(b) shall make a good faith estimate of the fee under Subsection (10)(a) for calendar year 2001, and remit that amount to the department on or before July 31, 2001.

(11) (a) The portion of the fees imposed under Subsection (10) which is to be paid to the Department of Cultural and Community Engagement for use by the Utah Division of Indian Affairs shall be used for establishment of a statewide community and economic development program for the tribes of Native American people within the exterior boundaries of the state who have by tribal procedure established a position rejecting siting of any nuclear waste facility on their reservation lands.

(b) The program under Subsection (11)(a) shall include:

(i) educational services and facilities;

(ii) health care services and facilities;

(iii) programs of economic development;

(iv) utilities;

(v) sewer;

(vi) street lighting;

(vii) roads and other infrastructure; and

(viii) oversight and staff support for the program.

(12) It is the intent of the Legislature that this part does not prohibit or interfere with a person's exercise of the rights under the First Amendment to the Constitution of the United States or under Utah Constitution~~{,}~~ Article I, ~~{{}~~Sec.~~{} Section}~~ 15, by an organization attempting to site a storage facility or transfer facility within the borders of the state for the placement of high-level nuclear waste or greater than class C radioactive waste.

Section 59. Section **19-4-111** is amended to read:

19-4-111. Fluoride added to or removed from water -- Election or shareholder vote required.

(1) As used in this section:

(a) "Corporate public water system" means a public water system that is owned by a corporation engaged in distributing water only to its shareholders.

(b) "Corporation" is as defined in Section 16-4-102.

(c) "Fluoride" means a chemical compound that contains the fluoride ion and is used to fluoridate drinking water, including:

(i) fluorosilicic acid;

(ii) sodium fluorosilicate; or

(iii) sodium fluoride.

(d) "Fluoride supplier" means a person who:

(i) manufactures, distributes, or packages or repackages fluoride;

(ii) is NSF/ANSI Standard 60 certified;

(iii) has evidence of the person's NSF/ANSI Standard 60 certification displayed on the website of a certification body accredited by the International Accreditation Forum, including:

(A) NSF;

(B) the Underwriter Laboratory; or

(C) the Water Quality Association; and

(iv) provides fluoride in compliance with applicable NSF/ANSI Standard 60 certification requirements.

(e) "Removal" means ceasing to add fluoride to a public water supply, the addition

having been previously approved by the voters of a political subdivision.

(2) (a) Except as provided in Subsection (7) or Subsection 19-4-104(1)(a)(i), public water supplies, whether state, county, municipal, or district, may not have fluoride added to or removed from the water supply without the approval of a majority of voters in an election in the area affected.

(b) An election shall be held:

(i) upon the filing of an initiative petition requesting the action in accordance with state law governing initiative petitions;

(ii) in the case of a municipal, [~~local~~] special district, special service district, or county water system that is functionally separate from any other water system, upon the passage of a resolution by the legislative body or [~~local~~] special district or special service district board representing the affected voters, submitting the question to the affected voters at a municipal general election; or

(iii) in a county of the first or second class, upon the passage of a resolution by the county legislative body to place an opinion question relating to all public water systems within the county, except as provided in Subsection (3), on the ballot at a general election.

(3) If a majority of voters on an opinion question under Subsection (2)(b)(iii) approve the addition of fluoride to or the removal of fluoride from the public water supplies within the county, the local health departments shall require the addition of fluoride to or the removal of fluoride from all public water supplies within that county other than those systems:

(a) that are functionally separate from any other public water systems in that county; and

(b) where a majority of the voters served by the public water system voted against the addition or removal of fluoride on the opinion question under Subsection (2)(b)(iii).

(4) Nothing contained in this section prohibits the addition of chlorine or other water purifying agents.

(5) Any political subdivision that, prior to November 2, 1976, decided to and was adding fluoride to the drinking water is considered to have complied with Subsection (2).

(6) In an election held pursuant to Subsection (2)(b)(i), (ii), or (iii), where a majority of the voters approve the addition of fluoride to or the removal of fluoride from the public water supplies, no election to consider adding fluoride to or removing fluoride from the public water

supplies shall be held for a period of four years from the date of approval by the majority of voters beginning with elections held in November 2000.

(7) (a) A supplier may not add fluoride to or remove fluoride from a corporate public water system unless the majority of the votes cast by the shareholders of the corporate public water system authorize the supplier to add or remove the fluoride.

(b) If a corporate public water system's shareholders do not vote to add fluoride under Subsection (7)(a), the supplier shall annually provide notice to a person who receives water from the corporate public water system of the average amount of fluoride in the water.

(c) A vote of the corporate public water system's shareholders under Subsection (7)(a) does not require a supplier of another public water system, including a public water system that provides water to the corporate public water system, to add fluoride to or remove fluoride from the public water system.

(8) If a local health department requires a public water system to add fluoride to public drinking water supplies under Subsection (3), the public water system shall fluoridate the public drinking water supplies with fluoride manufactured, distributed, packaged, and, if applicable, repackaged by a fluoride supplier who has provided copies of the original, dated documents used to obtain and maintain NSF/ANSI Standard 60 certification to:

(a) the local health department that oversees the public water system; and

(b) the division.

(9) A public water system described in Subsection (8) shall obtain, for each quantity of fluoride acquired to fluoridate public drinking water supplies, a batch-specific certificate of analysis that represents the complete composition of the formulation of the undiluted raw fluoride substance, in percent or parts by weight, for each chemical and contaminant in the batch.

(10) A local health department shall:

(a) order the temporary removal of fluoride from a public water system within the boundaries of the local health department if the public water system:

(i) violates Subsection (8) or (9); or

(ii) is unable to fluoridate public drinking water supplies in accordance with Subsections (8) and (9); and

(b) review and maintain the certification documents submitted to the local health

department under Subsection (8).

(11) A public water system described in Subsection (8) shall:

(a) review and maintain certificates of analysis obtained under Subsection (9); and

(b) upon request of a member of the public, provide a copy of a certificate of analysis obtained under Subsection (9) to the member of the public.

(12) A local health department may order the temporary removal of fluoride from a public water system within the boundaries of the local health department if the public water system violates a provision of Subsection (11).

(13) If a local health department orders the removal of fluoride from a public water system under Subsection (10)(a) or (12), the local health department shall:

(a) issue a public notice regarding the temporary removal of fluoride from the public water system; and

(b) when the public water system demonstrates its ability to fluoridate in accordance with Subsections (8), (9), and (11), revoke the removal requirement.

(14) The division shall review and maintain the certification documents submitted to the division under Subsection (8).

Section 60. Section **19-6-508** is amended to read:

19-6-508. Resource recovery project operated by an improvement district.

(1) As used in this section, "resource recovery project" means a project that consists of facilities for the handling, treatment and processing through anaerobic digestion, and resource recovery, of solid waste consisting primarily of organic matter.

(2) An improvement district authorized to operate all or any part of a system for the collection, treatment, or disposition of sewage under Section 17B-2a-403 may own, acquire, construct, or operate a resource recovery project in accordance with this section.

(3) An improvement district described in Subsection (2) may:

(a) (i) own, acquire, construct, or operate a resource recovery project independently; or

(ii) subject to Subsection (4), enter into a short- or long-term agreement for the ownership, acquisition, construction, management, or operation of a resource recovery project with:

(A) a public agency, as defined in Section 11-13-103;

(B) a private person; or

(C) a combination of persons listed in Subsections (3)(a)(ii)(A) and (B);

(b) accept and disburse money from a federal or state grant or any other source for the acquisition, construction, operation, maintenance, or improvement of a resource recovery project;

(c) contract for the lease or purchase of land, a facility, or a vehicle for the operation of a resource recovery project;

(d) establish one or more policies for the operation of a resource recovery project, including:

(i) the hours of operation;

(ii) the character and kind of waste accepted by the resource recovery project; and

(iii) any policy necessary to ensure the safety of the resource recovery project personnel;

(e) sell or contract for the sale of usable material, energy, fuel, or heat separated, extracted, recycled, or recovered from solid waste that consists primarily of organic matter in a resource recovery project;

(f) issue a bond in accordance with [~~Title 17B, Chapter 1, Part 11, Local District Bonds~~] Title 17B, Chapter 1, Part 11, Special District Bonds;

(g) issue an industrial development revenue bond in accordance with Title 11, Chapter 17, Utah Industrial Facilities and Development Act, to pay the costs of financing a project, as defined in Section 11-17-2, that consists of a resource recovery project;

(h) agree to construct and operate a resource recovery project that manages the solid waste of a public entity or a private person, in accordance with one or more contracts and other arrangements described in a proceeding according to which a bond is issued; and

(i) contract for and accept solid waste that consists primarily of organic matter at a resource recovery project regardless of whether the solid waste is generated inside or outside the boundaries of the improvement district.

(4) (a) An agreement described in Subsection (3)(a)(ii) shall:

(i) contain provisions that the improvement district's board determines are in the best interests of the improvement district, including provisions that address:

(A) the purposes of the agreement;

(B) the duration of the agreement;

(C) the method of appointing or employing necessary personnel;

(D) the method of financing the resource recovery project, including the apportionment of costs of construction and operation;

(E) the ownership interest of each owner in the resource recovery project and other property used in connection with the resource recovery project;

(F) the procedures for the disposition of property when the agreement expires or is terminated, or when the resource recovery project ceases operation for any reason;

(G) any agreement of the parties prohibiting or restricting the alienation or partition of the undivided interests of an owner in the resource recovery project;

(H) the construction and repair of the resource recovery project, including, if the parties agree, a determination that one of the parties may construct or repair the resource recovery project as agent for all parties to the agreement;

(I) the administration, operation, and maintenance of the resource recovery project, including, if the parties agree, a determination that one of the parties may administer, operate, and maintain the resource recovery project as agent for all parties to the agreement;

(J) the creation of a committee of representatives of the parties to the agreement, including the committee's powers;

(K) if the parties agree, a provision that if any party defaults in the performance or discharge of the party's obligations under the agreement, the other parties may perform or assume, pro rata or otherwise, the obligations of the defaulting party and may, if the defaulting party fails to remedy the default, succeed to or require the disposition of the rights and interests of the defaulting party in the resource recovery project;

(L) provisions for indemnification of construction, operation, and administration agents for completing construction, handling emergencies, and allocating output of the resource recovery project among the parties to the agreement according to the ownership interests of the parties;

(M) methods for amending and terminating the agreement; and

(N) any other matter determined by the parties to the agreement to be necessary; and

(ii) provide for an equitable method of allocating operation, repair, and maintenance costs of the resource recovery project.

(b) A provision under Subsection (4)(a)(i)(G) is not subject to any law restricting

covenants against alienation or partition.

(c) An improvement district's ownership interest in a resource recovery project may not be less than the proportion of money or the value of property supplied by the improvement district for the acquisition and construction of the resource recovery project.

Section 61. Section **26-8a-102** is amended to read:

26-8a-102. Definitions.

As used in this chapter:

(1) (a) "911 ambulance or paramedic services" means:

(i) either:

(A) 911 ambulance service;

(B) 911 paramedic service; or

(C) both 911 ambulance and paramedic service; and

(ii) a response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.

(b) "911 ambulance or paramedic services" does not mean a seven or 10 digit telephone call received directly by an ambulance provider licensed under this chapter.

(2) "Ambulance" means a ground, air, or water vehicle that:

(a) transports patients and is used to provide emergency medical services; and

(b) is required to obtain a permit under Section 26-8a-304 to operate in the state.

(3) "Ambulance provider" means an emergency medical service provider that:

(a) transports and provides emergency medical care to patients; and

(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

(4) (a) "Behavioral emergency services" means delivering a behavioral health intervention to a patient in an emergency context within a scope and in accordance with guidelines established by the department.

(b) "Behavioral emergency services" does not include engaging in the:

(i) practice of mental health therapy as defined in Section 58-60-102;

(ii) practice of psychology as defined in Section 58-61-102;

(iii) practice of clinical social work as defined in Section 58-60-202;

(iv) practice of certified social work as defined in Section 58-60-202;

(v) practice of marriage and family therapy as defined in Section 58-60-302;

(vi) practice of clinical mental health counseling as defined in Section 58-60-402; or

(vii) practice as a substance use disorder counselor as defined in Section 58-60-502.

(5) "Committee" means the State Emergency Medical Services Committee created by Section 26B-1-204.

(6) "Community paramedicine" means medical care:

(a) provided by emergency medical service personnel; and

(b) provided to a patient who is not:

(i) in need of ambulance transportation; or

(ii) located in a health care facility as defined in Section 26-21-2.

(7) "Direct medical observation" means in-person observation of a patient by a physician, registered nurse, physician's assistant, or individual licensed under Section 26-8a-302.

(8) "Emergency medical condition" means:

(a) a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

(i) placing the individual's health in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part; or

(b) a medical condition that in the opinion of a physician or the physician's designee requires direct medical observation during transport or may require the intervention of an individual licensed under Section 26-8a-302 during transport.

(9) (a) "Emergency medical service personnel" means an individual who provides emergency medical services or behavioral emergency services to a patient and is required to be licensed or certified under Section 26-8a-302.

(b) "Emergency medical service personnel" includes a paramedic, medical director of a licensed emergency medical service provider, emergency medical service instructor, behavioral emergency services technician, other categories established by the committee, and a certified emergency medical dispatcher.

(10) "Emergency medical service providers" means:

(a) licensed ambulance providers and paramedic providers;

(b) a facility or provider that is required to be designated under Subsection 26-8a-303(1)(a); and

(c) emergency medical service personnel.

(11) "Emergency medical services" means:

(a) medical services;

(b) transportation services;

(c) behavioral emergency services; or

(d) any combination of the services described in Subsections (11)(a) through (c).

(12) "Emergency medical service vehicle" means a land, air, or water vehicle that is:

(a) maintained and used for the transportation of emergency medical personnel, equipment, and supplies to the scene of a medical emergency; and

(b) required to be permitted under Section 26-8a-304.

(13) "Governing body":

(a) means the same as that term is defined in Section 11-42-102; and

(b) for purposes of a "special service district" under Section 11-42-102, means a special service district that has been delegated the authority to select a provider under this chapter by the special service district's legislative body or administrative control board.

(14) "Interested party" means:

(a) a licensed or designated emergency medical services provider that provides emergency medical services within or in an area that abuts an exclusive geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers;

(b) any municipality, county, or fire district that lies within or abuts a geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers; or

(c) the department when acting in the interest of the public.

(15) "Level of service" means the level at which an ambulance provider type of service is licensed as:

(a) emergency medical technician;

(b) advanced emergency medical technician; or

(c) paramedic.

(16) "Medical control" means a person who provides medical supervision to an emergency medical service provider.

(17) "Non-911 service" means transport of a patient that is not 911 transport under Subsection (1).

(18) "Nonemergency secured behavioral health transport" means an entity that:

(a) provides nonemergency secure transportation services for an individual who:

(i) is not required to be transported by an ambulance under Section 26-8a-305; and

(ii) requires behavioral health observation during transport between any of the following facilities:

(A) a licensed acute care hospital;

(B) an emergency patient receiving facility;

(C) a licensed mental health facility; and

(D) the office of a licensed health care provider; and

(b) is required to be designated under Section 26-8a-303.

(19) "Paramedic provider" means an entity that:

(a) employs emergency medical service personnel; and

(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

(20) "Patient" means an individual who, as the result of illness, injury, or a behavioral emergency condition, meets any of the criteria in Section 26-8a-305.

(21) "Political subdivision" means:

(a) a city, town, or metro township;

(b) a county;

(c) a special service district created under Title 17D, Chapter 1, Special Service District Act, for the purpose of providing fire protection services under Subsection 17D-1-201(9);

(d) a [~~local~~] special district created under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, for the purpose of providing fire protection, paramedic, and emergency services;

(e) areas coming together as described in Subsection 26-8a-405.2(2)(b)(ii); or

(f) an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act.

(22) "Trauma" means an injury requiring immediate medical or surgical intervention.

(23) "Trauma system" means a single, statewide system that:

(a) organizes and coordinates the delivery of trauma care within defined geographic areas from the time of injury through transport and rehabilitative care; and

(b) is inclusive of all prehospital providers, hospitals, and rehabilitative facilities in delivering care for trauma patients, regardless of severity.

(24) "Triage" means the sorting of patients in terms of disposition, destination, or priority. For prehospital trauma victims, triage requires a determination of injury severity to assess the appropriate level of care according to established patient care protocols.

(25) "Triage, treatment, transportation, and transfer guidelines" means written procedures that:

(a) direct the care of patients; and

(b) are adopted by the medical staff of an emergency patient receiving facility, trauma center, or an emergency medical service provider.

(26) "Type of service" means the category at which an ambulance provider is licensed as:

(a) ground ambulance transport;

(b) ground ambulance interfacility transport; or

(c) both ground ambulance transport and ground ambulance interfacility transport.

Section 62. Section **26-8a-405.2** is amended to read:

26-8a-405.2. Selection of provider -- Request for competitive sealed proposal -- Public convenience and necessity.

(1) (a) A political subdivision may contract with an applicant approved under Section 26-8a-404 to provide services for the geographic service area that is approved by the department in accordance with Subsection (2), if:

(i) the political subdivision complies with the provisions of this section and Section 26-8a-405.3 if the contract is for 911 ambulance or paramedic services; or

(ii) the political subdivision complies with Sections 26-8a-405.3 and 26-8a-405.4, if the contract is for non-911 services.

(b) (i) The provisions of this section and Sections 26-8a-405.1, 26-8a-405.3, and 26-8a-405.4 do not require a political subdivision to issue a request for proposal for ambulance

or paramedic services or non-911 services.

(ii) If a political subdivision does not contract with an applicant in accordance with this section and Section 26-8a-405.3, the provisions of Sections 26-8a-406 through 26-8a-409 apply to the issuance of a license for ambulance or paramedic services in the geographic service area that is within the boundaries of the political subdivision.

(iii) If a political subdivision does not contract with an applicant in accordance with this section, Section 26-8a-405.3 and Section 26-8a-405.4, a license for the non-911 services in the geographic service area that is within the boundaries of the political subdivision may be issued:

(A) under the public convenience and necessity provisions of Sections 26-8a-406 through 26-8a-409; or

(B) by a request for proposal issued by the department under Section 26-8a-405.5.

(c) (i) For purposes of this Subsection (1)(c):

(A) "Fire district" means a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, that:

(I) is located in a county of the first or second class; and

(II) provides fire protection, paramedic, and emergency services.

(B) "Participating municipality" means a city or town whose area is partly or entirely included within a county service area or fire district.

(C) "Participating county" means a county whose unincorporated area is partly or entirely included within a fire district.

(ii) A participating municipality or participating county may as provided in this section and Section 26-8a-405.3, contract with a provider for 911 ambulance or paramedic service.

(iii) If the participating municipality or participating county contracts with a provider for services under this section and Section 26-8a-405.3:

(A) the fire district is not obligated to provide the services that are included in the contract between the participating municipality or the participating county and the provider;

(B) the fire district may impose taxes and obligations within the fire district in the same manner as if the participating municipality or participating county were receiving all services offered by the fire district; and

(C) the participating municipality's and participating county's obligations to the fire district are not diminished.

(2) (a) The political subdivision shall submit the request for proposal and the exclusive geographic service area to be included in a request for proposal issued under Subsections (1)(a)(i) or (ii) to the department for approval prior to issuing the request for proposal. The department shall approve the request for proposal and the exclusive geographic service area:

(i) unless the geographic service area creates an orphaned area; and

(ii) in accordance with Subsections (2)(b) and (c).

(b) The exclusive geographic service area may:

(i) include the entire geographic service area that is within the political subdivision's boundaries;

(ii) include islands within or adjacent to other peripheral areas not included in the political subdivision that governs the geographic service area; or

(iii) exclude portions of the geographic service area within the political subdivision's boundaries if another political subdivision or licensed provider agrees to include the excluded area within their license.

(c) The proposed geographic service area for 911 ambulance or paramedic service shall demonstrate that non-911 ambulance or paramedic service will be provided in the geographic service area, either by the current provider, the applicant, or some other method acceptable to the department. The department may consider the effect of the proposed geographic service area on the costs to the non-911 provider and that provider's ability to provide only non-911 services in the proposed area.

Section 63. Section **26-8a-603** is amended to read:

26-8a-603. Volunteer Emergency Medical Service Personnel Health Insurance Program -- Creation -- Administration -- Eligibility -- Benefits -- Rulemaking -- Advisory board.

(1) As used in this section:

(a) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(b) "Local government entity" means a political subdivision that:

(i) is licensed as a ground ambulance provider under Part 4, Ambulance and Paramedic Providers; and

(ii) as of January 1, 2022, does not offer health insurance benefits to volunteer emergency medical service personnel.

(c) "PEHP" means the Public Employees' Benefit and Insurance Program created in Section 49-20-103.

(d) "Political subdivision" means a county, a municipality, a limited purpose government entity described in [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, or Title 17D, Limited Purpose Local Government Entities - Other Entities, or an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

(e) "Qualifying association" means an association that represents two or more political subdivisions in the state.

(2) The Volunteer Emergency Medical Service Personnel Health Insurance Program shall promote recruitment and retention of volunteer emergency medical service personnel by making health insurance available to volunteer emergency medical service personnel.

(3) The department shall contract with a qualifying association to create, implement, and administer the Volunteer Emergency Medical Service Personnel Health Insurance Program described in this section.

(4) Participation in the program is limited to emergency medical service personnel who:

(a) are licensed under Section 26-8a-302 and are able to perform all necessary functions associated with the license;

(b) provide emergency medical services under the direction of a local governmental entity:

(i) by responding to 20% of calls for emergency medical services in a rolling twelve-month period;

(ii) within a county of the third, fourth, fifth, or sixth class; and

(iii) as a volunteer under the Fair Labor Standards Act, in accordance with 29 C.F.R. Sec. 553.106;

(c) are not eligible for a health benefit plan through an employer or a spouse's employer;

(d) are not eligible for medical coverage under a government sponsored healthcare

program; and

(e) reside in the state.

(5) (a) A participant in the program is eligible to participate in PEHP in accordance with Subsection (5)(b) and Subsection 49-20-201(3).

(b) Benefits available to program participants under PEHP are limited to health insurance that:

(i) covers the program participant and the program participant's eligible dependents on a July 1 plan year;

(ii) accepts enrollment during an open enrollment period or for a special enrollment event, including the initial eligibility of a program participant;

(iii) if the program participant is no longer eligible for benefits, terminates on the last day of the last month for which the individual is a participant in the Volunteer Emergency Medical Service Personnel Health Insurance Program; and

(iv) is not subject to continuation rights under state or federal law.

(6) (a) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define additional criteria regarding benefit design and eligibility for the program.

(b) The department shall convene an advisory board:

(i) to advise the department on making rules under Subsection (6)(a); and

(ii) that includes representation from at least the following entities:

(A) the qualifying association that receives the contract under Subsection (3); and

(B) PEHP.

(7) For purposes of this section, the qualifying association that receives the contract under Subsection (3) shall be considered the public agency for whom the program participant is volunteering under 29 C.F.R. Sec. 553.101.

Section 64. Section **26-18-21** is amended to read:

26-18-21. Medicaid intergovernmental transfer report -- Approval requirements.

(1) As used in this section:

(a) (i) "Intergovernmental transfer" means the transfer of public funds from:

(A) a local government entity to another nonfederal governmental entity; or

(B) from a nonfederal, government owned health care facility regulated under Chapter

21, Health Care Facility Licensing and Inspection Act, to another nonfederal governmental entity.

(ii) "Intergovernmental transfer" does not include:

(A) the transfer of public funds from one state agency to another state agency; or

(B) a transfer of funds from the University of Utah Hospitals and Clinics.

(b) (i) "Intergovernmental transfer program" means a federally approved reimbursement program or category that is authorized by the Medicaid state plan or waiver authority for intergovernmental transfers.

(ii) "Intergovernmental transfer program" does not include the addition of a provider to an existing intergovernmental transfer program.

(c) "Local government entity" means a county, city, town, special service district, [~~local~~] special district, or local education agency as that term is defined in Section 63J-5-102.

(d) "Non-state government entity" means a hospital authority, hospital district, health care district, special service district, county, or city.

(2) (a) An entity that receives federal Medicaid dollars from the department as a result of an intergovernmental transfer shall, on or before August 1, 2017, and on or before August 1 each year thereafter, provide the department with:

(i) information regarding the payments funded with the intergovernmental transfer as authorized by and consistent with state and federal law;

(ii) information regarding the entity's ability to repay federal funds, to the extent required by the department in the contract for the intergovernmental transfer; and

(iii) other information reasonably related to the intergovernmental transfer that may be required by the department in the contract for the intergovernmental transfer.

(b) On or before October 15, 2017, and on or before October 15 each subsequent year, the department shall prepare a report for the Executive Appropriations Committee that includes:

(i) the amount of each intergovernmental transfer under Subsection (2)(a);

(ii) a summary of changes to CMS regulations and practices that are known by the department regarding federal funds related to an intergovernmental transfer program; and

(iii) other information the department gathers about the intergovernmental transfer under Subsection (2)(a).

(3) The department shall not create a new intergovernmental transfer program after July 1, 2017, unless the department reports to the Executive Appropriations Committee, in accordance with Section 63J-5-206, before submitting the new intergovernmental transfer program for federal approval. The report shall include information required by Subsection 63J-5-102(1)(d) and the analysis required in Subsections (2)(a) and (b).

(4) (a) The department shall enter into new Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contracts and contract amendments adding new nursing care facilities and new non-state government entity operators in accordance with this Subsection (4).

(b) (i) If the nursing care facility expects to receive less than $1,000,000 in federal funds each year from the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program, excluding seed funding and administrative fees paid by the non-state government entity, the department shall enter into a Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract with the non-state government entity operator of the nursing care facility.

(ii) If the nursing care facility expects to receive between $1,000,000 and $10,000,000 in federal funds each year from the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program, excluding seed funding and administrative fees paid by the non-state government entity, the department shall enter into a Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract with the non-state government entity operator of the nursing care facility after receiving the approval of the Executive Appropriations Committee.

(iii) If the nursing care facility expects to receive more than $10,000,000 in federal funds each year from the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program, excluding seed funding and administrative fees paid by the non-state government entity, the department may not approve the application without obtaining approval from the Legislature and the governor.

(c) A non-state government entity may not participate in the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program unless the non-state government entity is a special service district, county, or city that operates a hospital or holds a license under Chapter 21, Health Care Facility Licensing and Inspection Act.

(d) Each non-state government entity that participates in the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program shall certify to the department that:

(i) the non-state government entity is a local government entity that is able to make an intergovernmental transfer under applicable state and federal law;

(ii) the non-state government entity has sufficient public funds or other permissible sources of seed funding that comply with the requirements in 42 C.F.R. Part 433, Subpart B;

(iii) the funds received from the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program are:

(A) for each nursing care facility, available for patient care until the end of the non-state government entity's fiscal year; and

(B) used exclusively for operating expenses for nursing care facility operations, patient care, capital expenses, rent, royalties, and other operating expenses; and

(iv) the non-state government entity has completed all licensing, enrollment, and other forms and documents required by federal and state law to register a change of ownership with the department and with CMS.

(5) The department shall add a nursing care facility to an existing Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract if:

(a) the nursing care facility is managed by or affiliated with the same non-state government entity that also manages one or more nursing care facilities that are included in an existing Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract; and

(b) the non-state government entity makes the certification described in Subsection (4)(d)(ii).

(6) The department may not increase the percentage of the administrative fee paid by a non-state government entity to the department under the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program.

(7) The department may not condition participation in the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program on:

(a) a requirement that the department be allowed to direct or determine the types of patients that a non-state government entity will treat or the course of treatment for a patient in a

non-state government nursing care facility; or

(b) a requirement that a non-state government entity or nursing care facility post a bond, purchase insurance, or create a reserve account of any kind.

(8) The non-state government entity shall have the primary responsibility for ensuring compliance with Subsection (4)(d)(ii).

(9) (a) The department may not enter into a new Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract before January 1, 2019.

(b) Subsection (9)(a) does not apply to:

(i) a new Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract that was included in the federal funds request summary under Section 63J-5-201 for fiscal year 2018; or

(ii) a nursing care facility that is operated or managed by the same company as a nursing care facility that was included in the federal funds request summary under Section 63J-5-201 for fiscal year 2018.

Section 65. Section **31A-23a-501** is amended to read:

31A-23a-501. Licensee compensation.

(1) As used in this section:

(a) "Commission compensation" includes funds paid to or credited for the benefit of a licensee from:

(i) commission amounts deducted from insurance premiums on insurance sold by or placed through the licensee;

(ii) commission amounts received from an insurer or another licensee as a result of the sale or placement of insurance; or

(iii) overrides, bonuses, contingent bonuses, or contingent commissions received from an insurer or another licensee as a result of the sale or placement of insurance.

(b) (i) "Compensation from an insurer or third party administrator" means commissions, fees, awards, overrides, bonuses, contingent commissions, loans, stock options, gifts, prizes, or any other form of valuable consideration:

(A) whether or not payable pursuant to a written agreement; and

(B) received from:

(I) an insurer; or

(II) a third party to the transaction for the sale or placement of insurance.

(ii) "Compensation from an insurer or third party administrator" does not mean compensation from a customer that is:

(A) a fee or pass-through costs as provided in Subsection (1)(e); or

(B) a fee or amount collected by or paid to the producer that does not exceed an amount established by the commissioner by administrative rule.

(c) (i) "Customer" means:

(A) the person signing the application or submission for insurance; or

(B) the authorized representative of the insured actually negotiating the placement of insurance with the producer.

(ii) "Customer" does not mean a person who is a participant or beneficiary of:

(A) an employee benefit plan; or

(B) a group or blanket insurance policy or group annuity contract sold, solicited, or negotiated by the producer or affiliate.

(d) (i) "Noncommission compensation" includes all funds paid to or credited for the benefit of a licensee other than commission compensation.

(ii) "Noncommission compensation" does not include charges for pass-through costs incurred by the licensee in connection with obtaining, placing, or servicing an insurance policy.

(e) "Pass-through costs" include:

(i) costs for copying documents to be submitted to the insurer; and

(ii) bank costs for processing cash or credit card payments.

(2) (a) Except as provided in Subsection (3), a licensee may receive from an insured or from a person purchasing an insurance policy, noncommission compensation.

(b) Noncommission compensation shall be:

(i) limited to actual or reasonable expenses incurred for services; and

(ii) uniformly applied to all insureds or prospective insureds in a class or classes of business or for a specific service or services.

(c) The following additional noncommission compensation is authorized:

(i) compensation a surety bond's principal debtor pays, under procedures approved by a rule or order of the commissioner, to a producer of a compensation corporate surety for an extra service;

(ii) compensation an insurance producer receives for services performed for an insured in connection with a claim adjustment, if the producer:

(A) does not receive and is not promised compensation for aiding in the claim adjustment before the claim occurs; and

(B) is also licensed as a public adjuster in accordance with Section 31A-26-203;

(iii) compensation a consultant receives as a consulting fee, if the consultant complies with the requirements under Section 31A-23a-401; and

(iv) a compensation arrangement that the commissioner approves after finding that the arrangement:

(A) does not violate Section 31A-23a-401; and

(B) is not harmful to the public.

(d) All accounting records relating to noncommission compensation shall be maintained in a manner that facilitates an audit.

(3) (a) A surplus lines producer may receive noncommission compensation when acting as a producer for the insured in a surplus lines transaction, if:

(i) the producer and the insured have agreed on the producer's noncommission compensation; and

(ii) the producer has disclosed to the insured the existence and source of any other compensation that accrues to the producer as a result of the transaction.

(b) The disclosure required by this Subsection (3) shall:

(i) include the signature of the insured or prospective insured acknowledging the noncommission compensation;

(ii) clearly specify:

(A) the amount of any known noncommission compensation;

(B) the type and amount, if known, of any potential and contingent noncommission compensation; and

(C) the existence and source of any other compensation; and

(iii) be provided to the insured or prospective insured before the performance of the service.

(4) (a) For purposes of this Subsection (4):

(i) "Large customer" means an employer who, with respect to a calendar year and to a

plan year:

(A) employed an average of at least 100 eligible employees on each business day during the preceding calendar year; and

(B) employs at least two employees on the first day of the plan year.

(ii) "Producer" includes:

(A) a producer;

(B) an affiliate of a producer; or

(C) a consultant.

(b) A producer may not accept or receive any compensation from an insurer or third party administrator for the initial placement of a health benefit plan, other than a hospital confinement indemnity policy, unless prior to a large customer's initial purchase of the health benefit plan the producer discloses in writing to the large customer that the producer will receive compensation from the insurer or third party administrator for the placement of insurance, including the amount or type of compensation known to the producer at the time of the disclosure.

(c) A producer shall:

(i) obtain the large customer's signed acknowledgment that the disclosure under Subsection (4)(b) was made to the large customer; or

(ii) (A) sign a statement that the disclosure required by Subsection (4)(b) was made to the large customer; and

(B) keep the signed statement on file in the producer's office while the health benefit plan placed with the large customer is in force.

(d) A licensee who collects or receives any part of the compensation from an insurer or third party administrator in a manner that facilitates an audit shall, while the health benefit plan placed with the large customer is in force, maintain a copy of:

(i) the signed acknowledgment described in Subsection (4)(c)(i); or

(ii) the signed statement described in Subsection (4)(c)(ii).

(e) Subsection (4)(c) does not apply to:

(i) a person licensed as a producer who acts only as an intermediary between an insurer and the customer's producer, including a managing general agent; or

(ii) the placement of insurance in a secondary or residual market.

(f) (i) A producer shall provide to a large customer listed in this Subsection (4)(f) an annual accounting, as defined by rule made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, of all amounts the producer receives in commission compensation from an insurer or third party administrator as a result of the sale or placement of a health benefit plan to a large customer that is:

(A) the state;

(B) a political subdivision or instrumentality of the state or a combination thereof primarily engaged in educational activities or the administration or servicing of educational activities, including the State Board of Education and its instrumentalities, an institution of higher education and its branches, a school district and its instrumentalities, a vocational and technical school, and an entity arising out of a consolidation agreement between entities described under this Subsection (4)(f)(i)(B);

(C) a county, city, town, [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, special service district under Title 17D, Chapter 1, Special Service District Act, an entity created by an interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute as a political subdivision of the state; or

(D) a quasi-public corporation, that has the same meaning as defined in Section 63E-1-102.

(ii) The department shall pattern the annual accounting required by this Subsection (4)(f) on the insurance related information on Internal Revenue Service Form 5500 and its relevant attachments.

(g) At the request of the department, a producer shall provide the department a copy of:

(i) a disclosure required by this Subsection (4); or

(ii) an Internal Revenue Service Form 5500 and its relevant attachments.

(5) This section does not alter the right of any licensee to recover from an insured the amount of any premium due for insurance effected by or through that licensee or to charge a reasonable rate of interest upon past-due accounts.

(6) This section does not apply to bail bond producers or bail enforcement agents as defined in Section 31A-35-102.

(7) A licensee may not receive noncommission compensation from an insurer, insured, or enrollee for providing a service or engaging in an act that is required to be provided or performed in order to receive commission compensation, except for the surplus lines transactions that do not receive commissions.

Section 66. Section **34-30-14** is amended to read:

34-30-14. Public works -- Wages.

(1) For purposes of this section:

(a) "Political subdivision" means a county, city, town, school district, [~~local~~] special district, special service district, public corporation, institution of higher education of the state, public agency of any political subdivision, or other entity that expends public funds for construction, maintenance, repair or improvement of public works.

(b) "Public works" or "public works project" means a building, road, street, sewer, storm drain, water system, irrigation system, reclamation project, or other facility owned or to be contracted for by the state or a political subdivision, and that is to be paid for in whole or in part with tax revenue paid by residents of the state.

(2) (a) Except as provided in Subsection (2)(b) or as required by federal or state law, the state or any political subdivision that contracts for the construction, maintenance, repair, or improvement of public works may not require that a contractor, subcontractor, or material supplier or carrier engaged in the construction, maintenance, repair, or improvement of public works pay its employees:

(i) a predetermined amount of wages or wage rate; or

(ii) a type, amount, or rate of employee benefits.

(b) Subsection (2)(a) does not apply when federal law requires the payment of prevailing or minimum wages to persons working on projects funded in whole or in part by federal funds.

(3) The state or any political subdivision that contracts for the construction, maintenance, repair, or improvement of public works may not require that a contractor, subcontractor, or material supplier or carrier engaged in the construction, maintenance, repair or improvement of public works execute or otherwise become a party to any project labor agreement, collective bargaining agreement, prehire agreement, or any other agreement with employees, their representatives, or any labor organization as a condition of bidding,

negotiating, being awarded, or performing work on a public works project.

(4) This section applies to any contract executed after May 1, 1995.

Section 67. Section **34-32-1.1** is amended to read:

34-32-1.1. Prohibiting public employers from making payroll deductions for political purposes.

(1) As used in this section:

(a) (i) "Labor organization" means a lawful organization of any kind that is composed, in whole or in part, of employees and that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of employment.

(ii) Except as provided in Subsection (1)(a)(iii), "labor organization" includes each employee association and union for public employees.

(iii) "Labor organization" does not include organizations governed by the National Labor Relations Act, 29 U.S.C. Sec. 151 et seq. or the Railroad Labor Act, 45 U.S.C. Sec. 151 et seq.

(b) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate for public office at any caucus, political convention, primary, or election.

(c) "Public employee" means a person employed by:

(i) the state of Utah or any administrative subunit of the state;

(ii) a state institution of higher education; or

(iii) a municipal corporation, a county, a municipality, a school district, a [~~local~~] special district, a special service district, or any other political subdivision of the state.

(d) "Public employer" means an employer that is:

(i) the state of Utah or any administrative subunit of the state;

(ii) a state institution of higher education; or

(iii) a municipal corporation, a county, a municipality, a school district, a [~~local~~] special district, a special service district, or any other political subdivision of the state.

(e) "Union dues" means dues, fees, assessments, or other money required as a condition of membership or participation in a labor organization.

(2) A public employer may not deduct from the wages of its employees any amounts to

be paid to:

(a) a candidate as defined in Section 20A-11-101;

(b) a personal campaign committee as defined in Section 20A-11-101;

(c) a political action committee as defined in Section 20A-11-101;

(d) a political issues committee as defined in Section 20A-11-101;

(e) a registered political party as defined in Section 20A-11-101;

(f) a political fund as defined in Section 20A-11-1402; or

(g) any entity established by a labor organization to solicit, collect, or distribute money primarily for political purposes as defined in this chapter.

(3) The attorney general may bring an action to require a public employer to comply with the requirements of this section.

Section 68. Section **34-41-101** is amended to read:

34-41-101. Definitions.

As used in this chapter:

(1) "Drug" means any substance recognized as a drug in the United States Pharmacopeia, the National Formulary, the Homeopathic Pharmacopeia, or other drug compendia, including Title 58, Chapter 37, Utah Controlled Substances Act, or supplement to any of those compendia.

(2) "Drug testing" means the scientific analysis for the presence of drugs or their metabolites in the human body in accordance with the definitions and terms of this chapter.

(3) "Local governmental employee" means any person or officer in the service of a local governmental entity or state institution of higher education for compensation.

(4) (a) "Local governmental entity" means any political subdivision of Utah including any county, municipality, local school district, [~~local~~] special district, special service district, or any administrative subdivision of those entities.

(b) "Local governmental entity" does not mean Utah state government or its administrative subdivisions provided for in Sections 63A-17-1001 through 63A-17-1006.

(5) "Periodic testing" means preselected and preannounced drug testing of employees or volunteers conducted on a regular schedule.

(6) "Prospective employee" means any person who has made a written or oral application to become an employee of a local governmental entity or a state institution of

higher education.

(7) "Random testing" means the unannounced drug testing of an employee or volunteer who was selected for testing by using a method uninfluenced by any personal characteristics other than job category.

(8) "Reasonable suspicion for drug testing" means an articulated belief based on the recorded specific facts and reasonable inferences drawn from those facts that a local government employee or volunteer is in violation of the drug-free workplace policy.

(9) "Rehabilitation testing" means unannounced but preselected drug testing done as part of a program of counseling, education, and treatment of an employee or volunteer in conjunction with the drug-free workplace policy.

(10) "Safety sensitive position" means any local governmental or state institution of higher education position involving duties which directly affects the safety of governmental employees, the general public, or positions where there is access to controlled substances, as defined in Title 58, Chapter 37, Utah Controlled Substances Act, during the course of performing job duties.

(11) "Sample" means urine, blood, breath, saliva, or hair.

(12) "State institution of higher education" means the institution as defined in Section 53B-3-102.

(13) "Volunteer" means any person who donates services as authorized by the local governmental entity or state institution of higher education without pay or other compensation except expenses actually and reasonably incurred.

Section 69. Section **34-52-102** is amended to read:

34-52-102. Definitions.

As used in this chapter:

(1) "Applicant" means an individual who provides information to a public or private employer for the purpose of obtaining employment.

(2) (a) "Criminal conviction" means a verdict or finding of guilt after a criminal trial or a plea of guilty or nolo contendere to a criminal charge.

(b) "Criminal conviction" does not include an expunged criminal conviction.

(3) (a) "Private employer" means a person who has one or more employees employed in the same business, or in or about the same establishment, under any contract of hire, express

or implied, oral or written.

(b) "Private employer" does not include a public employer.

(4) "Public employer" means an employer that is:

(a) the state or any administrative subunit of the state, including a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of state government;

(b) a state institution of higher education; or

(c) a municipal corporation, county, municipality, school district, [~~local~~] special district, special service district, or other political subdivision of the state.

Section 70. Section **35A-1-102** is amended to read:

35A-1-102. Definitions.

Unless otherwise specified, as used in this title:

(1) "Client" means an individual who the department has determined to be eligible for services or benefits under:

(a) Chapter 3, Employment Support Act; and

(b) Chapter 5, Training and Workforce Improvement Act.

(2) "Department" means the Department of Workforce Services created in Section 35A-1-103.

(3) "Economic service area" means an economic service area established in accordance with Chapter 2, Economic Service Areas.

(4) "Employment assistance" means services or benefits provided by the department under:

(a) Chapter 3, Employment Support Act; and

(b) Chapter 5, Training and Workforce Improvement Act.

(5) "Employment center" is a location in an economic service area where the services provided by an economic service area under Section 35A-2-201 may be accessed by a client.

(6) "Employment counselor" means an individual responsible for developing an employment plan and coordinating the services and benefits under this title in accordance with Chapter 2, Economic Service Areas.

(7) "Employment plan" means a written agreement between the department and a client that describes:

(a) the relationship between the department and the client;

(b) the obligations of the department and the client; and

(c) the result if an obligation is not fulfilled by the department or the client.

(8) "Executive director" means the executive director of the department appointed under Section 35A-1-201.

(9) "Government entity" means the state or any county, municipality, [~~local~~] special district, special service district, or other political subdivision or administrative unit of the state, a state institution of higher education as defined in Section 53B-2-101, or a local education agency as defined in Section 53G-7-401.

(10) "Public assistance" means:

(a) services or benefits provided under Chapter 3, Employment Support Act;

(b) medical assistance provided under Title 26, Chapter 18, Medical Assistance Act;

(c) foster care maintenance payments provided from the General Fund or under Title IV-E of the Social Security Act;

(d) SNAP benefits; and

(e) any other public funds expended for the benefit of a person in need of financial, medical, food, housing, or related assistance.

(11) "SNAP" means the federal "Supplemental Nutrition Assistance Program" under Title 7, U.S.C. Chapter 51, Supplemental Nutrition Assistance Program, formerly known as the federal Food Stamp Program.

(12) "SNAP benefit" or "SNAP benefits" means a financial benefit, coupon, or privilege available under SNAP.

(13) "Stabilization" means addressing the basic living, family care, and social or psychological needs of the client so that the client may take advantage of training or employment opportunities provided under this title or through other agencies or institutions.

(14) "Vulnerable populations" means children or adults with a life situation that substantially affects that individual's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own financial resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

Section 71. Section **36-11-102** is amended to read:

36-11-102. Definitions.

As used in this chapter:

(1) "Aggregate daily expenditures" means:

(a) for a single lobbyist, principal, or government officer, the total of all expenditures made within a calendar day by the lobbyist, principal, or government officer for the benefit of an individual public official;

(b) for an expenditure made by a member of a lobbyist group, the total of all expenditures made within a calendar day by every member of the lobbyist group for the benefit of an individual public official; or

(c) for a multiclient lobbyist, the total of all expenditures made by the multiclient lobbyist within a calendar day for the benefit of an individual public official, regardless of whether the expenditures were attributed to different clients.

(2) "Approved activity" means an event, a tour, or a meeting:

(a) (i) to which a legislator or another nonexecutive branch public official is invited; and

(ii) attendance at which is approved by:

(A) the speaker of the House of Representatives, if the public official is a member of the House of Representatives or another nonexecutive branch public official; or

(B) the president of the Senate, if the public official is a member of the Senate or another nonexecutive branch public official; or

(b) (i) to which a public official who holds a position in the executive branch of state government is invited; and

(ii) attendance at which is approved by the governor or the lieutenant governor.

(3) "Board of education" means:

(a) a local school board described in Title 53G, Chapter 4, School Districts;

(b) the State Board of Education;

(c) the State Charter School Board created under Section 53G-5-201; or

(d) a charter school governing board described in Title 53G, Chapter 5, Charter Schools.

(4) "Capitol hill complex" means the same as that term is defined in Section 63C-9-102.

(5) (a) "Compensation" means anything of economic value, however designated, that is paid, loaned, granted, given, donated, or transferred to an individual for the provision of services or ownership before any withholding required by federal or state law.

(b) "Compensation" includes:

(i) a salary or commission;

(ii) a bonus;

(iii) a benefit;

(iv) a contribution to a retirement program or account;

(v) a payment includable in gross income, as defined in Section 62, Internal Revenue Code, and subject to social security deductions, including a payment in excess of the maximum amount subject to deduction under social security law;

(vi) an amount that the individual authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; or

(vii) income based on an individual's ownership interest.

(6) "Compensation payor" means a person who pays compensation to a public official in the ordinary course of business:

(a) because of the public official's ownership interest in the compensation payor; or

(b) for services rendered by the public official on behalf of the compensation payor.

(7) "Education action" means:

(a) a resolution, policy, or other official action for consideration by a board of education;

(b) a nomination or appointment by an education official or a board of education;

(c) a vote on an administrative action taken by a vote of a board of education;

(d) an adjudicative proceeding over which an education official has direct or indirect control;

(e) a purchasing or contracting decision;

(f) drafting or making a policy, resolution, or rule;

(g) determining a rate or fee; or

(h) making an adjudicative decision.

(8) "Education official" means:

(a) a member of a board of education;

(b) an individual appointed to or employed in a position under a board of education, if that individual:

(i) occupies a policymaking position or makes purchasing or contracting decisions;

(ii) drafts resolutions or policies or drafts or makes rules;

(iii) determines rates or fees;

(iv) makes decisions relating to an education budget or the expenditure of public money; or

(v) makes adjudicative decisions; or

(c) an immediate family member of an individual described in Subsection (8)(a) or (b).

(9) "Event" means entertainment, a performance, a contest, or a recreational activity that an individual participates in or is a spectator at, including a sporting event, an artistic event, a play, a movie, dancing, or singing.

(10) "Executive action" means:

(a) a nomination or appointment by the governor;

(b) the proposal, drafting, amendment, enactment, or defeat by a state agency of a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) agency ratemaking proceedings; or

(d) an adjudicative proceeding of a state agency.

(11) (a) "Expenditure" means any of the items listed in this Subsection (11)(a) when given to or for the benefit of a public official unless consideration of equal or greater value is received:

(i) a purchase, payment, or distribution;

(ii) a loan, gift, or advance;

(iii) a deposit, subscription, or forbearance;

(iv) services or goods;

(v) money;

(vi) real property;

(vii) a ticket or admission to an event; or

(viii) a contract, promise, or agreement, whether or not legally enforceable, to provide any item listed in Subsections (11)(a)(i) through (vii).

(b) "Expenditure" does not mean:

(i) a commercially reasonable loan made in the ordinary course of business;

(ii) a campaign contribution:

(A) reported in accordance with Title 20A, Chapter 11, Campaign and Financial Reporting Requirements, Section 10-3-208, Section 17-16-6.5, or any applicable ordinance adopted under Subsection 10-3-208(6) or 17-16-6.5(1); or

(B) lawfully given to a person that is not required to report the contribution under a law or ordinance described in Subsection (11)(b)(ii)(A);

(iii) printed informational material that is related to the performance of the recipient's official duties;

(iv) a devise or inheritance;

(v) any item listed in Subsection (11)(a) if:

(A) given by a relative;

(B) given by a compensation payor for a purpose solely unrelated to the public official's position as a public official;

(C) the item is food or beverage with a value that does not exceed the food reimbursement rate, and the aggregate daily expenditures for food and beverage do not exceed the food reimbursement rate; or

(D) the item is not food or beverage, has a value of less than $10, and the aggregate daily expenditures do not exceed $10;

(vi) food or beverage that is provided at an event, a tour, or a meeting to which the following are invited:

(A) all members of the Legislature;

(B) all members of a standing or interim committee;

(C) all members of an official legislative task force;

(D) all members of a party caucus; or

(E) all members of a group described in Subsections (11)(b)(vi)(A) through (D) who are attending a meeting of a national organization whose primary purpose is addressing general

legislative policy;

(vii) food or beverage that is provided at an event, a tour, or a meeting to a public official who is:

(A) giving a speech at the event, tour, or meeting;

(B) participating in a panel discussion at the event, tour, or meeting; or

(C) presenting or receiving an award at the event, tour, or meeting;

(viii) a plaque, commendation, or award that:

(A) is presented in public; and

(B) has the name of the individual receiving the plaque, commendation, or award inscribed, etched, printed, or otherwise permanently marked on the plaque, commendation, or award;

(ix) a gift that:

(A) is an item that is not consumable and not perishable;

(B) a public official, other than a local official or an education official, accepts on behalf of the state;

(C) the public official promptly remits to the state;

(D) a property administrator does not reject under Section 63G-23-103;

(E) does not constitute a direct benefit to the public official before or after the public official remits the gift to the state; and

(F) after being remitted to the state, is not transferred, divided, distributed, or used to distribute a gift or benefit to one or more public officials in a manner that would otherwise qualify the gift as an expenditure if the gift were given directly to a public official;

(x) any of the following with a cash value not exceeding $30:

(A) a publication; or

(B) a commemorative item;

(xi) admission to or attendance at an event, a tour, or a meeting, the primary purpose of which is:

(A) to solicit a contribution that is reportable under Title 20A, Chapter 11, Campaign and Financial Reporting Requirements, 2 U.S.C. Sec. 434, Section 10-3-208, Section 17-16-6.5, or an applicable ordinance adopted under Subsection 10-3-208(6) or 17-16-6.5(1);

(B) to solicit a campaign contribution that a person is not required to report under a law

or ordinance described in Subsection (11)(b)(xi)(A); or

(C) charitable solicitation, as defined in Section 13-22-2;

(xii) travel to, lodging at, food or beverage served at, and admission to an approved activity;

(xiii) sponsorship of an approved activity;

(xiv) notwithstanding Subsection (11)(a)(vii), admission to, attendance at, or travel to or from an event, a tour, or a meeting:

(A) that is sponsored by a governmental entity;

(B) that is widely attended and related to a governmental duty of a public official;

(C) for a local official, that is sponsored by an organization that represents only local governments, including the Utah Association of Counties, the Utah League of Cities and Towns, or the Utah Association of Special Districts; or

(D) for an education official, that is sponsored by a public school, a charter school, or an organization that represents only public schools or charter schools, including the Utah Association of Public Charter Schools, the Utah School Boards Association, or the Utah School Superintendents Association; or

(xv) travel to a widely attended tour or meeting related to a governmental duty of a public official if that travel results in a financial savings to:

(A) for a public official who is not a local official or an education official, the state; or

(B) for a public official who is a local official or an education official, the local government or board of education to which the public official belongs.

(12) "Food reimbursement rate" means the total amount set by the director of the Division of Finance, by rule, under Section 63A-3-107, for in-state meal reimbursement, for an employee of the executive branch, for an entire day.

(13) (a) "Foreign agent" means an individual who engages in lobbying under contract with a foreign government.

(b) "Foreign agent" does not include an individual who is recognized by the United States Department of State as a duly accredited diplomatic or consular officer of a foreign government, including a duly accredited honorary consul.

(14) "Foreign government" means a government other than the government of:

(a) the United States;

(b) a state within the United States;

(c) a territory or possession of the United States; or

(d) a political subdivision of the United States.

(15) (a) "Government officer" means:

(i) an individual elected to a position in state or local government, when acting in the capacity of the state or local government position;

(ii) an individual elected to a board of education, when acting in the capacity of a member of a board of education;

(iii) an individual appointed to fill a vacancy in a position described in Subsection (15)(a)(i) or (ii), when acting in the capacity of the position; or

(iv) an individual appointed to or employed in a full-time position by state government, local government, or a board of education, when acting in the capacity of the individual's appointment or employment.

(b) "Government officer" does not mean a member of the legislative branch of state government.

(16) "Immediate family" means:

(a) a spouse;

(b) a child residing in the household; or

(c) an individual claimed as a dependent for tax purposes.

(17) "Legislative action" means:

(a) a bill, resolution, amendment, nomination, veto override, or other matter pending or proposed in either house of the Legislature or its committees or requested by a legislator; and

(b) the action of the governor in approving or vetoing legislation.

(18) "Lobbying" means communicating with a public official for the purpose of influencing a legislative action, executive action, local action, or education action.

(19) (a) "Lobbyist" means:

(i) an individual who is employed by a principal; or

(ii) an individual who contracts for economic consideration, other than reimbursement for reasonable travel expenses, with a principal to lobby a public official.

(b) "Lobbyist" does not include:

(i) a government officer;

(ii) a member or employee of the legislative branch of state government;

(iii) a person, including a principal, while appearing at, or providing written comments to, a hearing conducted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act or Title 63G, Chapter 4, Administrative Procedures Act;

(iv) a person participating on or appearing before an advisory or study task force, commission, board, or committee, constituted by the Legislature, a local government, a board of education, or any agency or department of state government, except legislative standing, appropriation, or interim committees;

(v) a representative of a political party;

(vi) an individual representing a bona fide church solely for the purpose of protecting the right to practice the religious doctrines of the church, unless the individual or church makes an expenditure that confers a benefit on a public official;

(vii) a newspaper, television station or network, radio station or network, periodical of general circulation, or book publisher for the purpose of publishing news items, editorials, other comments, or paid advertisements that directly or indirectly urge legislative action, executive action, local action, or education action;

(viii) an individual who appears on the individual's own behalf before a committee of the Legislature, an agency of the executive branch of state government, a board of education, the governing body of a local government, a committee of a local government, or a committee of a board of education, solely for the purpose of testifying in support of or in opposition to legislative action, executive action, local action, or education action; or

(ix) an individual representing a business, entity, or industry, who:

(A) interacts with a public official, in the public official's capacity as a public official, while accompanied by a registered lobbyist who is lobbying in relation to the subject of the interaction or while presenting at a legislative committee meeting at the same time that the registered lobbyist is attending another legislative committee meeting; and

(B) does not make an expenditure for, or on behalf of, a public official in relation to the interaction or during the period of interaction.

(20) "Lobbyist group" means two or more lobbyists, principals, government officers, or any combination of lobbyists, principals, and government officers, who each contribute a portion of an expenditure made to benefit a public official or member of the public official's

immediate family.

(21) "Local action" means:

(a) an ordinance or resolution for consideration by a local government;

(b) a nomination or appointment by a local official or a local government;

(c) a vote on an administrative action taken by a vote of a local government's legislative body;

(d) an adjudicative proceeding over which a local official has direct or indirect control;

(e) a purchasing or contracting decision;

(f) drafting or making a policy, resolution, or rule;

(g) determining a rate or fee; or

(h) making an adjudicative decision.

(22) "Local government" means:

(a) a county, city, town, or metro township;

(b) a [~~local~~] special district governed by [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts;

(c) a special service district governed by Title 17D, Chapter 1, Special Service District Act;

(d) a community reinvestment agency governed by Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(e) a conservation district governed by Title 17D, Chapter 3, Conservation District Act;

(f) a redevelopment agency; or

(g) an interlocal entity or a joint cooperative undertaking governed by Title 11, Chapter 13, Interlocal Cooperation Act.

(23) "Local official" means:

(a) an elected member of a local government;

(b) an individual appointed to or employed in a position in a local government if that individual:

(i) occupies a policymaking position or makes purchasing or contracting decisions;

(ii) drafts ordinances or resolutions or drafts or makes rules;

(iii) determines rates or fees; or

(iv) makes adjudicative decisions; or

(c) an immediate family member of an individual described in Subsection (23)(a) or (b).

(24) "Meeting" means a gathering of people to discuss an issue, receive instruction, or make a decision, including a conference, seminar, or summit.

(25) "Multiclient lobbyist" means a single lobbyist, principal, or government officer who represents two or more clients and divides the aggregate daily expenditure made to benefit a public official or member of the public official's immediate family between two or more of those clients.

(26) "Principal" means a person that employs an individual to perform lobbying, either as an employee or as an independent contractor.

(27) "Public official" means:

(a) (i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government; or

(iii) an individual appointed to or employed in a position in the executive or legislative branch of state government if that individual:

(A) occupies a policymaking position or makes purchasing or contracting decisions;

(B) drafts legislation or makes rules;

(C) determines rates or fees; or

(D) makes adjudicative decisions;

(b) an immediate family member of a person described in Subsection (27)(a);

(c) a local official; or

(d) an education official.

(28) "Public official type" means a notation to identify whether a public official is:

(a) (i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government;

(iii) an individual appointed to or employed in a position in the legislative branch of state government who meets the definition of public official under Subsection (27)(a)(iii);

(iv) an individual appointed to or employed in a position in the executive branch of state government who meets the definition of public official under Subsection (27)(a)(iii);

(v) a local official, including a description of the type of local government for which

the individual is a local official; or

(vi) an education official, including a description of the type of board of education for which the individual is an education official; or

(b) an immediate family member of an individual described in Subsection (27)(a), (c), or (d).

(29) "Quarterly reporting period" means the three-month period covered by each financial report required under Subsection 36-11-201(2)(a).

(30) "Related person" means a person, agent, or employee who knowingly and intentionally assists a lobbyist, principal, or government officer in lobbying.

(31) "Relative" means:

(a) a spouse;

(b) a child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin; or

(c) a spouse of an individual described in Subsection (31)(b).

(32) "Tour" means visiting a location, for a purpose relating to the duties of a public official, and not primarily for entertainment, including:

(a) viewing a facility;

(b) viewing the sight of a natural disaster; or

(c) assessing a circumstance in relation to which a public official may need to take action within the scope of the public official's duties.

Section 72. Section **36-11-201** is amended to read:

36-11-201. Lobbyist, principal, and government officer financial reporting requirements -- Prohibition for related person to make expenditures.

(1) (a) (i) Except as provided in Subsection (1)(a)(ii), a lobbyist shall file financial reports with the lieutenant governor on or before the due dates specified in Subsection (2).

(ii) A lobbyist who has not made an expenditure during a quarterly reporting period is not required to file a quarterly financial report for that quarterly reporting period.

(iii) A lobbyist who is not required to file any quarterly reports under this section for a calendar year shall, on or before January 10 of the following year, file a financial report listing the amount of the expenditures for the entire preceding year as "none."

(b) Except as provided in Subsection (1)(c), a government officer or principal that

makes an expenditure during any of the quarterly reporting periods under Subsection (2)(a) shall file a financial report with the lieutenant governor on or before the date that a report for that quarter is due.

(c) (i) As used in this Subsection (1)(c), "same local government type" means:

(A) for a county government, the same county government or another county government;

(B) for a municipal government, the same municipal government or another municipal government;

(C) for a board of education, the same board of education;

(D) for a local school board described in Title 53G, Chapter 4, School Districts, the same local school board or another local school board;

(E) for a [~~local~~] special district, the same [~~local~~] special district or another [~~local~~] special district or a special service district;

(F) for a special service district, the same special service district or another special service district or a [~~local~~] special district; or

(G) for a participant in an interlocal agreement, another participant in the same interlocal agreement.

(ii) A local official or an education official is not required, under this section, to report an expenditure made by the local official or education official to another local official or education official of the same local government type as the local official or education official making the expenditure.

(2) (a) A financial report is due quarterly on the following dates:

(i) April 10, for the period of January 1 through March 31;

(ii) July 10, for the period of April 1 through June 30;

(iii) October 10, for the period of July 1 through September 30; and

(iv) January 10, for the period of October 1 through December 31 of the previous year.

(b) If the due date for a financial report falls on a Saturday, Sunday, or legal holiday, the report is due on the next succeeding business day.

(c) A financial report is timely filed if it is filed electronically before the close of regular office hours on or before the due date.

(3) A financial report shall contain:

(a) the total amount of expenditures made to benefit any public official during the quarterly reporting period;

(b) the total amount of expenditures made, by the type of public official, during the quarterly reporting period;

(c) for the financial report due on January 10:

(i) the total amount of expenditures made to benefit any public official during the last calendar year; and

(ii) the total amount of expenditures made, by the type of public official, during the last calendar year;

(d) a disclosure of each expenditure made during the quarterly reporting period to reimburse or pay for travel or lodging for a public official, including:

(i) each travel destination and each lodging location;

(ii) the name of each public official who benefitted from the expenditure on travel or lodging;

(iii) the public official type of each public official named;

(iv) for each public official named, a listing of the amount and purpose of each expenditure made for travel or lodging; and

(v) the total amount of expenditures listed under Subsection (3)(d)(iv);

(e) a disclosure of aggregate daily expenditures greater than $10 made during the quarterly reporting period including:

(i) the date and purpose of the expenditure;

(ii) the location of the expenditure;

(iii) the name of any public official benefitted by the expenditure;

(iv) the type of the public official benefitted by the expenditure; and

(v) the total monetary worth of the benefit that the expenditure conferred on any public official;

(f) for each public official who was employed by the lobbyist, principal, or government officer, a list that provides:

(i) the name of the public official; and

(ii) the nature of the employment with the public official;

(g) each bill or resolution, by number and short title, on behalf of which the lobbyist,

principal, or government officer made an expenditure to a public official;

(h) a description of each executive action on behalf of which the lobbyist, principal, or government officer made an expenditure to a public official;

(i) a description of each local action or education action regarding which the lobbyist, principal, or government officer made an expenditure to a local official or education official;

(j) the general purposes, interests, and nature of the entities that the lobbyist, principal, or government officer filing the report represents; and

(k) for a lobbyist, a certification that the information provided in the report is true, accurate, and complete to the lobbyist's best knowledge and belief.

(4) A related person may not, while assisting a lobbyist, principal, or government officer in lobbying, make an expenditure that benefits a public official under circumstances that would otherwise fall within the disclosure requirements of this chapter if the expenditure was made by the lobbyist, principal, or government officer.

(5) The lieutenant governor shall:

(a) (i) develop a preprinted form for a financial report required by this section; and

(ii) make copies of the form available to a lobbyist, principal, or government officer who requests a form; and

(b) provide a reporting system that allows a lobbyist, principal, or government officer to submit a financial report required by this chapter via the Internet.

(6) (a) A lobbyist and a principal shall continue to file a financial report required by this section until the lobbyist or principal files a statement with the lieutenant governor that:

(i) (A) for a lobbyist, states that the lobbyist has ceased lobbying activities; or

(B) for a principal, states that the principal no longer employs an individual as a lobbyist;

(ii) in the case of a lobbyist, states that the lobbyist is surrendering the lobbyist's license;

(iii) contains a listing, as required by this section, of all previously unreported expenditures that have been made through the date of the statement; and

(iv) states that the lobbyist or principal will not make any additional expenditure that is not disclosed on the statement unless the lobbyist or principal complies with the disclosure and licensing requirements of this chapter.

(b) Except as provided in Subsection (1)(a)(ii), a lobbyist or principal that is required to file a financial report under this section is required to file the report quarterly until the lobbyist or principal files the statement required by Subsection (6)(a).

Section 73. Section **36-11-304** is amended to read:

36-11-304. Expenditures over certain amounts prohibited -- Exceptions.

(1) Except as provided in Subsection (2) or (3), a lobbyist, principal, or government officer may not make or offer to make aggregate daily expenditures that exceed:

(a) for food or beverage, the food reimbursement rate; or

(b) $10 for expenditures other than food or beverage.

(2) A lobbyist, principal, or government officer may make aggregate daily expenditures that exceed the limits described in Subsection (1):

(a) for the following items, if the expenditure is reported in accordance with Section 36-11-201:

(i) food;

(ii) beverage;

(iii) travel;

(iv) lodging; or

(v) admission to or attendance at a tour or meeting that is not an approved activity; or

(b) if the expenditure is made for a purpose solely unrelated to the public official's position as a public official.

(3) (a) As used in this Subsection (3), "same local government type" means:

(i) for a county government, the same county government or another county government;

(ii) for a municipal government, the same municipal government or another municipal government;

(iii) for a board of education, the same board of education;

(iv) for a local school board described in Title 53G, Chapter 4, School Districts, the same local school board or another local school board;

(v) for a [~~local~~] special district, the same [~~local~~] special district or another [~~local~~] special district or a special service district;

(vi) for a special service district, the same special service district or another special

service district or a [~~local~~] special district; or

(vii) for a participant in an interlocal agreement, another participant in the same interlocal agreement.

(b) This section does not apply to an expenditure made by a local official or an education official to another local official or education official of the same local government type as the local official or education official making the expenditure.

Section 74. Section **36-12-13** is amended to read:

36-12-13. Office of the Legislative Fiscal Analyst established -- Powers, functions, and duties -- Qualifications.

(1) There is established an Office of the Legislative Fiscal Analyst as a permanent staff office for the Legislature.

(2) The powers, functions, and duties of the Office of the Legislative Fiscal Analyst under the supervision of the fiscal analyst are:

(a) (i) to estimate general revenue collections, including comparisons of:

(A) current estimates for each major tax type to long-term trends for that tax type;

(B) current estimates for federal fund receipts to long-term federal fund trends; and

(C) current estimates for tax collections and federal fund receipts to long-term trends deflated for the inflationary effects of debt monetization; and

(ii) to report the analysis required under Subsection (2)(a)(i) to the Legislature's Executive Appropriations Committee before each annual general session of the Legislature;

(b) to analyze in detail the state budget before the convening of each legislative session and make recommendations to the Legislature on each item or program appearing in the budget, including:

(i) funding for and performance of programs, acquisitions, and services currently undertaken by state government to determine whether each department, agency, institution, or program should:

(A) continue at its current level of expenditure;

(B) continue at a different level of expenditure; or

(C) be terminated; and

(ii) increases or decreases to spending authority and other resource allocations for the current and future fiscal years;

(c) to prepare on all proposed bills fiscal estimates that reflect:

(i) potential state government revenue impacts;

(ii) anticipated state government expenditure changes;

(iii) anticipated expenditure changes for county, municipal, [~~local~~] special district, or special service district governments; and

(iv) anticipated direct expenditure by Utah residents and businesses, including the unit cost, number of units, and total cost to all impacted residents and businesses;

(d) to indicate whether each proposed bill will impact the regulatory burden for Utah residents or businesses, and if so:

(i) whether the impact increases or decreases the regulatory burden; and

(ii) whether the change in burden is high, medium, or low;

(e) beginning in 2017 and repeating every three years after 2017, to prepare the following cycle of analyses of long-term fiscal sustainability:

(i) in year one, the joint revenue volatility report required under Section 63J-1-205;

(ii) in year two, a long-term budget for programs appropriated from major funds and tax types; and

(iii) in year three, a budget stress test comparing estimated future revenue to and expenditure from major funds and tax types under various potential economic conditions;

(f) to report instances in which the administration may be failing to carry out the expressed intent of the Legislature;

(g) to propose and analyze statutory changes for more effective operational economies or more effective administration;

(h) to prepare, before each annual general session of the Legislature, a summary showing the current status of the following as compared to the past nine fiscal years:

(i) debt;

(ii) long-term liabilities;

(iii) contingent liabilities;

(iv) General Fund borrowing;

(v) reserves;

(vi) fund and nonlapsing balances; and

(vii) cash funded capital investments;

(i) to make recommendations for addressing the items described in Subsection (2)(h) in the upcoming annual general session of the Legislature;

(j) to prepare, after each session of the Legislature, a summary showing the effect of the final legislative program on the financial condition of the state;

(k) to conduct organizational and management improvement studies in accordance with Title 63J, Chapter 1, Part 9, Government Performance Reporting and Efficiency Process, and legislative rule;

(l) to prepare and deliver upon request of any interim committee or the Legislative Management Committee, reports on the finances of the state and on anticipated or proposed requests for appropriations;

(m) to recommend areas for research studies by the executive department or the interim committees;

(n) to appoint and develop a professional staff within budget limitations;

(o) to prepare and submit the annual budget request for the office;

(p) to develop a taxpayer receipt:

(i) available to taxpayers through a website; and

(ii) that allows a taxpayer to view on the website an estimate of how the taxpayer's tax dollars are expended for government purposes; and

(q) to publish or provide other information on taxation and government expenditures that may be accessed by the public.

(3) The legislative fiscal analyst shall have a master's degree in public administration, political science, economics, accounting, or the equivalent in academic or practical experience.

(4) In carrying out the duties provided for in this section, the legislative fiscal analyst may obtain access to all records, documents, and reports necessary to the scope of the legislative fiscal analyst's duties according to the procedures contained in Title 36, Chapter 14, Legislative Subpoena Powers.

(5) The Office of the Legislative Fiscal Analyst shall provide any information the State Board of Education reports in accordance with Subsection 53E-3-507(7) to:

(a) the chief sponsor of the proposed bill; and

(b) upon request, any legislator.

Section 75. Section **38-1b-102** is amended to read:

38-1b-102. Definitions.

As used in this chapter:

(1) "Alternate means" means the same as that term is defined in Section 38-1a-102.

(2) "Construction project" means the same as that term is defined in Section 38-1a-102.

(3) "Construction work" means the same as that term is defined in Section 38-1a-102.

(4) "Designated agent" means the same as that term is defined in Section 38-1a-102.

(5) "Division" means the Division of Professional Licensing created in Section 58-1-103.

(6) "Government project" means a construction project undertaken by or for:

(a) the state, including a department, division, or other agency of the state; or

(b) a county, city, town, school district, [~~local~~] special district, special service district, community reinvestment agency, or other political subdivision of the state.

(7) "Government project-identifying information" means:

(a) the lot or parcel number of each lot included in the project property that has a lot or parcel number; or

(b) the unique project number assigned by the designated agent.

(8) "Original contractor" means the same as that term is defined in Section 38-1a-102.

(9) "Owner" means the same as that term is defined in Section 38-1a-102.

(10) "Owner-builder" means the same as that term is defined in Section 38-1a-102.

(11) "Private project" means a construction project that is not a government project.

(12) "Project property" means the same as that term is defined in Section 38-1a-102.

(13) "Registry" means the same as that term is defined in Section 38-1a-102.

Section 76. Section **38-9-102** is amended to read:

38-9-102. Definitions.

As used in this chapter:

(1) "Affected person" means:

(a) a person who is a record interest holder of the real property that is the subject of a recorded nonconsensual common law document; or

(b) the person against whom a recorded nonconsensual common law document purports to reflect or establish a claim or obligation.

(2) "Document sponsor" means a person who, personally or through a designee, signs

or submits for recording a document that is, or is alleged to be, a nonconsensual common law document.

(3) "Interest holder" means a person who holds or possesses a present, lawful property interest in certain real property, including an owner, title holder, mortgagee, trustee, or beneficial owner.

(4) "Lien claimant" means a person claiming an interest in real property who offers a document for recording or filing with any county recorder in the state asserting a lien, or notice of interest, or other claim of interest in certain real property.

(5) "Nonconsensual common law document" means a document that is submitted to a county recorder's office for recording against public official property that:

(a) purports to create a lien or encumbrance on or a notice of interest in the real property;

(b) at the time the document is recorded, is not:

(i) expressly authorized by this chapter or a state or federal statute;

(ii) authorized by or contained in an order or judgment of a court of competent jurisdiction; or

(iii) signed by or expressly authorized by a document signed by the owner of the real property; and

(c) is submitted in relation to the public official's status or capacity as a public official.

(6) "Owner" means a person who has a vested ownership interest in real property.

(7) "Political subdivision" means a county, city, town, school district, special improvement or taxing district, [~~local~~] special district, special service district, or other governmental subdivision or public corporation.

(8) "Public official" means:

(a) a current or former:

(i) member of the Legislature;

(ii) member of Congress;

(iii) judge;

(iv) member of law enforcement;

(v) corrections officer;

(vi) active member of the Utah State Bar; or

(vii) member of the Board of Pardons and Parole;

(b) an individual currently or previously appointed or elected to an elected position in:

(i) the executive branch of state or federal government; or

(ii) a political subdivision;

(c) an individual currently or previously appointed to or employed in a position in a political subdivision, or state or federal government that:

(i) is a policymaking position; or

(ii) involves:

(A) purchasing or contracting decisions;

(B) drafting legislation or making rules;

(C) determining rates or fees; or

(D) making adjudicative decisions; or

(d) an immediate family member of a person described in Subsections (8)(a) through (c).

(9) "Public official property" means real property that has at least one record interest holder who is a public official.

(10) (a) "Record interest holder" means a person who holds or possesses a present, lawful property interest in real property, including an owner, titleholder, mortgagee, trustee, or beneficial owner, and whose name and interest in that real property appears in the county recorder's records for the county in which the property is located.

(b) "Record interest holder" includes any grantor in the chain of the title in real property.

(11) "Record owner" means an owner whose name and ownership interest in certain real property is recorded or filed in the county recorder's records for the county in which the property is located.

(12) "Wrongful lien" means any document that purports to create a lien, notice of interest, or encumbrance on an owner's interest in certain real property and at the time it is recorded is not:

(a) expressly authorized by this chapter or another state or federal statute;

(b) authorized by or contained in an order or judgment of a court of competent jurisdiction in the state; or

(c) signed by or authorized pursuant to a document signed by the owner of the real property.

Section 77. Section **45-1-101** is amended to read:

45-1-101. Legal notice publication requirements.

(1) As used in this section:

(a) "Average advertisement rate" means:

(i) in determining a rate for publication on the public legal notice website or in a newspaper that primarily distributes publications in a county of the third, fourth, fifth, or sixth class, a newspaper's gross advertising revenue for the preceding calendar quarter divided by the gross column-inch space used in the newspaper for advertising for the previous calendar quarter; or

(ii) in determining a rate for publication in a newspaper that primarily distributes publications in a county of the first or second class, a newspaper's average rate for all qualifying advertising segments for the preceding calendar quarter for an advertisement:

(A) published in the same section of the newspaper as the legal notice; and

(B) of the same column-inch space as the legal notice.

(b) "Column-inch space" means a unit of space that is one standard column wide by one inch high.

(c) "Gross advertising revenue" means the total revenue obtained by a newspaper from all of its qualifying advertising segments.

(d) (i) "Legal notice" means:

(A) a communication required to be made public by a state statute or state agency rule; or

(B) a notice required for judicial proceedings or by judicial decision.

(ii) "Legal notice" does not include:

(A) a public notice published by a public body in accordance with the provisions of Sections 52-4-202 and 63A-16-601; or

(B) a notice of delinquency in the payment of property taxes described in Section 59-2-1332.5.

[~~(e) "Local district" is as defined in Section 17B-1-102.~~]

[~~(f)~~] (e) "Public legal notice website" means the website described in Subsection (2)(b)

for the purpose of publishing a legal notice online.

[~~(g)~~] (f) (i) "Qualifying advertising segment" means, except as provided in Subsection [~~(1)(g)(ii)~~] (1)(f)(ii), a category of print advertising sold by a newspaper, including classified advertising, line advertising, and display advertising.

(ii) "Qualifying advertising segment" does not include legal notice advertising.

(g) "Special district" means the same as that term is defined in Section 17B-1-102.

(h) "Special service district" [~~is as~~] means the same as that term is defined in Section 17D-1-102.

(2) Except as provided in Subsections (8) and (9), notwithstanding any other legal notice provision established by law, a person required by law to publish legal notice shall publish the notice:

(a) (i) as required by the statute establishing the legal notice requirement; or

(ii) by serving legal notice, by certified mail or in person, directly on all parties for whom the statute establishing the legal notice requirement requires legal notice, if:

(A) the direct service of legal notice does not replace publication in a newspaper that primarily distributes publications in a county of the third, fourth, fifth, or sixth class;

(B) the statute clearly identifies the parties;

(C) the person can prove that the person has identified all parties for whom notice is required; and

(D) the person keeps a record of the service for at least two years; and

(b) on a public legal notice website established by the combined efforts of Utah's newspapers that collectively distribute newspapers to the majority of newspaper subscribers in the state.

(3) The public legal notice website shall:

(a) be available for viewing and searching by the general public, free of charge; and

(b) accept legal notice posting from any newspaper in the state.

(4) A person that publishes legal notice as required under Subsection (2) is not relieved from complying with an otherwise applicable requirement under Title 52, Chapter 4, Open and Public Meetings Act.

(5) If legal notice is required by law and one option for complying with the requirement is publication in a newspaper, or if a [~~local~~] special district or a special service

district publishes legal notice in a newspaper, the newspaper:

(a) may not charge more for publication than the newspaper's average advertisement rate; and

(b) shall publish the legal notice on the public legal notice website at no additional cost.

(6) If legal notice is not required by law, if legal notice is required by law and the person providing legal notice, in accordance with the requirements of law, chooses not to publish the legal notice in a newspaper, or if a [~~local~~] special district or a special service district with an annual operating budget of less than $250,000 chooses to publish a legal notice on the public notice website without publishing the complete notice in the newspaper, a newspaper:

(a) may not charge more than an amount equal to 15% of the newspaper's average advertisement rate for publishing five column lines in the newspaper to publish legal notice on the public legal notice website;

(b) may not require that the legal notice be published in the newspaper; and

(c) at the request of the person publishing on the legal notice website, shall publish in the newspaper up to five column lines, at no additional charge, that briefly describe the legal notice and provide the web address where the full public legal notice can be found.

(7) If a newspaper offers to publish the type of legal notice described in Subsection (5), it may not refuse to publish the type of legal notice described in Subsection (6).

(8) Notwithstanding the requirements of a statute that requires the publication of legal notice, if legal notice is required by law to be published by a [~~local~~] special district or a special service district with an annual operating budget of $250,000 or more, the [~~local~~] special district or special service district shall satisfy its legal notice publishing requirements by:

(a) mailing a written notice, postage prepaid:

(i) to each voter in the [~~local~~] special district or special service district; and

(ii) that contains the information required by the statute that requires the publication of legal notice; or

(b) publishing the legal notice in a newspaper and on the legal public notice website as described in Subsection (5).

(9) Notwithstanding the requirements of a statute that requires the publication of legal notice, if legal notice is required by law to be published by a [~~local~~] special district or a special

service district with an annual operating budget of less than $250,000, the [~~local~~] special district or special service district shall satisfy its legal notice publishing requirements by:

(a) mailing a written notice, postage prepaid:

(i) to each voter in the [~~local~~] special district or special service district; and

(ii) that contains the information required by the statute that requires the publication of legal notice; or

(b) publishing the legal notice in a newspaper and on the public legal notice website as described in Subsection (5); or

(c) publishing the legal notice on the public legal notice website as described in Subsection (6).

Section 78. Section **49-11-102** is amended to read:

49-11-102. Definitions.

As used in this title:

(1) (a) "Active member" means a member who:

(i) is employed by a participating employer and accruing service credit; or

(ii) within the previous 120 days:

(A) has been employed by a participating employer; and

(B) accrued service credit.

(b) "Active member" does not include a retiree.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of mortality tables as recommended by the actuary and adopted by the executive director, including regular interest.

(3) "Actuarial interest rate" means the interest rate as recommended by the actuary and adopted by the board upon which the funding of system costs and benefits are computed.

(4) (a) "Agency" means:

(i) a department, division, agency, office, authority, commission, board, institution, or hospital of the state;

(ii) a county, municipality, school district, [~~local~~] special district, or special service district;

(iii) a state college or university; or

(iv) any other participating employer.

(b) "Agency" does not include an entity listed under Subsection (4)(a)(i) that is a subdivision of another entity listed under Subsection (4)(a).

(5) "Allowance" or "retirement allowance" means the pension plus the annuity, including any cost of living or other authorized adjustments to the pension and annuity.

(6) "Alternate payee" means a member's former spouse or family member eligible to receive payments under a Domestic Relations Order in compliance with Section 49-11-612.

(7) "Amortization rate" means the board certified percent of salary required to amortize the unfunded actuarial accrued liability in accordance with policies established by the board upon the advice of the actuary.

(8) "Annuity" means monthly payments derived from member contributions.

(9) "Appointive officer" means an employee appointed to a position for a definite and fixed term of office by official and duly recorded action of a participating employer whose appointed position is designated in the participating employer's charter, creation document, or similar document, and:

(a) who earns $500 or more per month, indexed as of January 1, 1990, as provided in Section 49-12-407 for a Tier I appointive officer; and

(b) whose appointive position is full-time as certified by the participating employer for a Tier II appointive officer.

(10) (a) "At-will employee" means a person who is employed by a participating employer and:

(i) who is not entitled to merit or civil service protection and is generally considered exempt from a participating employer's merit or career service personnel systems;

(ii) whose on-going employment status is entirely at the discretion of the person's employer; or

(iii) who may be terminated without cause by a designated supervisor, manager, or director.

(b) "At-will employee" does not include a career employee who has obtained a reasonable expectation of continued employment based on inclusion in a participating employer's merit system, civil service protection system, or career service personnel systems, policies, or plans.

(11) "Beneficiary" means any person entitled to receive a payment under this title

through a relationship with or designated by a member, participant, covered individual, or alternate payee of a defined contribution plan.

(12) "Board" means the Utah State Retirement Board established under Section 49-11-202.

(13) "Board member" means a person serving on the Utah State Retirement Board as established under Section 49-11-202.

(14) "Board of Higher Education" or "Utah Board of Higher Education" means the Utah Board of Higher Education described in Section 53B-1-402.

(15) "Certified contribution rate" means the board certified percent of salary paid on behalf of an active member to the office to maintain the system on a financially and actuarially sound basis.

(16) "Contributions" means the total amount paid by the participating employer and the member into a system or to the Utah Governors' and Legislators' Retirement Plan under Chapter 19, Utah Governors' and Legislators' Retirement Act.

(17) "Council member" means a person serving on the Membership Council established under Section 49-11-205.

(18) "Covered individual" means any individual covered under Chapter 20, Public Employees' Benefit and Insurance Program Act.

(19) "Current service" means covered service under:

(a) Chapter 12, Public Employees' Contributory Retirement Act;

(b) Chapter 13, Public Employees' Noncontributory Retirement Act;

(c) Chapter 14, Public Safety Contributory Retirement Act;

(d) Chapter 15, Public Safety Noncontributory Retirement Act;

(e) Chapter 16, Firefighters' Retirement Act;

(f) Chapter 17, Judges' Contributory Retirement Act;

(g) Chapter 18, Judges' Noncontributory Retirement Act;

(h) Chapter 19, Utah Governors' and Legislators' Retirement Act;

(i) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or

(j) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

(20) "Defined benefit" or "defined benefit plan" or "defined benefit system" means a system or plan offered under this title to provide a specified allowance to a retiree or a retiree's

spouse after retirement that is based on a set formula involving one or more of the following factors:

(a) years of service;

(b) final average monthly salary; or

(c) a retirement multiplier.

(21) "Defined contribution" or "defined contribution plan" means any defined contribution plan or deferred compensation plan authorized under the Internal Revenue Code and administered by the board.

(22) "Educational institution" means a political subdivision or instrumentality of the state or a combination thereof primarily engaged in educational activities or the administration or servicing of educational activities, including:

(a) the State Board of Education and its instrumentalities;

(b) any institution of higher education and its branches;

(c) any school district and its instrumentalities;

(d) any vocational and technical school; and

(e) any entity arising out of a consolidation agreement between entities described under this Subsection (22).

(23) "Elected official":

(a) means a person elected to a state office, county office, municipal office, school board or school district office, [~~local~~] special district office, or special service district office;

(b) includes a person who is appointed to serve an unexpired term of office described under Subsection (23)(a); and

(c) does not include a judge or justice who is subject to a retention election under Section 20A-12-201.

(24) (a) "Employer" means any department, educational institution, or political subdivision of the state eligible to participate in a government-sponsored retirement system under federal law.

(b) "Employer" may also include an agency financed in whole or in part by public funds.

(25) "Exempt employee" means an employee working for a participating employer:

(a) who is not eligible for service credit under Section 49-12-203, 49-13-203,

49-14-203, 49-15-203, or 49-16-203; and

(b) for whom a participating employer is not required to pay contributions or nonelective contributions.

(26) "Final average monthly salary" means the amount computed by dividing the compensation received during the final average salary period under each system by the number of months in the final average salary period.

(27) "Fund" means any fund created under this title for the purpose of paying benefits or costs of administering a system, plan, or program.

(28) (a) "Inactive member" means a member who has not been employed by a participating employer for a period of at least 120 days.

(b) "Inactive member" does not include retirees.

(29) (a) "Initially entering" means hired, appointed, or elected for the first time, in current service as a member with any participating employer.

(b) "Initially entering" does not include a person who has any prior service credit on file with the office.

(c) "Initially entering" includes an employee of a participating employer, except for an employee that is not eligible under a system or plan under this title, who:

(i) does not have any prior service credit on file with the office;

(ii) is covered by a retirement plan other than a retirement plan created under this title; and

(iii) moves to a position with a participating employer that is covered by this title.

(30) "Institution of higher education" means an institution described in Section 53B-1-102.

(31) (a) "Member" means a person, except a retiree, with contributions on deposit with a system, the Utah Governors' and Legislators' Retirement Plan under Chapter 19, Utah Governors' and Legislators' Retirement Act, or with a terminated system.

(b) "Member" also includes leased employees within the meaning of Section 414(n)(2) of the Internal Revenue Code, if the employees have contributions on deposit with the office. If leased employees constitute less than 20% of the participating employer's work force that is not highly compensated within the meaning of Section 414(n)(5)(c)(ii), Internal Revenue Code, "member" does not include leased employees covered by a plan described in Section 414(n)(5)

of the federal Internal Revenue Code.

(32) "Member contributions" means the sum of the contributions paid to a system or the Utah Governors' and Legislators' Retirement Plan, including refund interest if allowed by a system, and which are made by:

(a) the member; and

(b) the participating employer on the member's behalf under Section 414(h) of the Internal Revenue Code.

(33) "Nonelective contribution" means an amount contributed by a participating employer into a participant's defined contribution account.

(34) "Normal cost rate":

(a) means the percent of salary that is necessary for a retirement system that is fully funded to maintain its fully funded status; and

(b) is determined by the actuary based on the assumed rate of return established by the board.

(35) "Office" means the Utah State Retirement Office.

(36) "Participant" means an individual with voluntary deferrals or nonelective contributions on deposit with the defined contribution plans administered under this title.

(37) "Participating employer" means a participating employer, as defined by Chapter 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees' Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters' Retirement Act, Chapter 17, Judges' Contributory Retirement Act, and Chapter 18, Judges' Noncontributory Retirement Act, or an agency financed in whole or in part by public funds which is participating in a system or plan as of January 1, 2002.

(38) "Part-time appointed board member" means a person:

(a) who is appointed to serve as a member of a board, commission, council, committee, or panel of a participating employer; and

(b) whose service as a part-time appointed board member does not qualify as a regular full-time employee as defined under Section 49-12-102, 49-13-102, or 49-22-102.

(39) "Pension" means monthly payments derived from participating employer contributions.

(40) "Plan" means the Utah Governors' and Legislators' Retirement Plan created by Chapter 19, Utah Governors' and Legislators' Retirement Act, the New Public Employees' Tier II Defined Contribution Plan created by Chapter 22, Part 4, Tier II Defined Contribution Plan, the New Public Safety and Firefighter Tier II Defined Contribution Plan created by Chapter 23, Part 4, Tier II Defined Contribution Plan, or the defined contribution plans created under Section 49-11-801.

(41) (a) "Political subdivision" means any local government entity, including cities, towns, counties, and school districts, but only if the subdivision is a juristic entity that is legally separate and distinct from the state and only if its employees are not by virtue of their relationship to the entity employees of the state.

(b) "Political subdivision" includes [~~local~~] special districts, special service districts, or authorities created by the Legislature or by local governments, including the office.

(c) "Political subdivision" does not include a project entity created under Title 11, Chapter 13, Interlocal Cooperation Act, that was formed prior to July 1, 1987.

(42) "Program" means the Public Employees' Insurance Program created under Chapter 20, Public Employees' Benefit and Insurance Program Act, or the Public Employees' Long-Term Disability program created under Chapter 21, Public Employees' Long-Term Disability Act.

(43) "Public funds" means those funds derived, either directly or indirectly, from public taxes or public revenue, dues or contributions paid or donated by the membership of the organization, used to finance an activity whose objective is to improve, on a nonprofit basis, the governmental, educational, and social programs and systems of the state or its political subdivisions.

(44) "Qualified defined contribution plan" means a defined contribution plan that meets the requirements of Section 401(k) or Section 403(b) of the Internal Revenue Code.

(45) "Refund interest" means the amount accrued on member contributions at a rate adopted by the board.

(46) "Retiree" means an individual who has qualified for an allowance under this title.

(47) "Retirement" means the status of an individual who has become eligible, applies for, and is entitled to receive an allowance under this title.

(48) "Retirement date" means the date selected by the member on which the member's

retirement becomes effective with the office.

(49) "Retirement related contribution":

(a) means any employer payment to any type of retirement plan or program made on behalf of an employee; and

(b) does not include Social Security payments or Social Security substitute payments made on behalf of an employee.

(50) "Service credit" means:

(a) the period during which an employee is employed and compensated by a participating employer and meets the eligibility requirements for membership in a system or the Utah Governors' and Legislators' Retirement Plan, provided that any required contributions are paid to the office; and

(b) periods of time otherwise purchasable under this title.

(51) "Surviving spouse" means:

(a) the lawful spouse who has been married to a member for at least six months immediately before the death date of the member; or

(b) a former lawful spouse of a member with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612.

(52) "System" means the individual retirement systems created by Chapter 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees' Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters' Retirement Act, Chapter 17, Judges' Contributory Retirement Act, Chapter 18, Judges' Noncontributory Retirement Act, and Chapter 19, Utah Governors' and Legislators' Retirement Act, the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 22, Part 3, Tier II Hybrid Retirement System, and the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 23, Part 3, Tier II Hybrid Retirement System.

(53) "Technical college" means the same as that term is defined in Section 53B-1-101.5.

(54) "Tier I" means a system or plan under this title for which:

(a) an employee is eligible to participate if the employee initially enters regular full-time employment before July 1, 2011; or

(b) a governor or legislator who initially enters office before July 1, 2011.

(55) (a) "Tier II" means a system or plan under this title provided in lieu of a Tier I system or plan for an employee, governor, legislator, or full-time elected official who does not have Tier I service credit in a system or plan under this title:

(i) if the employee initially enters regular full-time employment on or after July 1, 2011; or

(ii) if the governor, legislator, or full-time elected official initially enters office on or after July 1, 2011.

(b) "Tier II" includes:

(i) the Tier II hybrid system established under:

(A) Chapter 22, Part 3, Tier II Hybrid Retirement System; or

(B) Chapter 23, Part 3, Tier II Hybrid Retirement System; and

(ii) the Tier II Defined Contribution Plan (Tier II DC Plan) established under:

(A) Chapter 22, Part 4, Tier II Defined Contribution Plan; or

(B) Chapter 23, Part 4, Tier II Defined Contribution Plan.

(56) "Unfunded actuarial accrued liability" or "UAAL":

(a) is determined by the system's actuary; and

(b) means the excess, if any, of the accrued liability of a retirement system over the actuarial value of its assets.

(57) "Voluntary deferrals" means an amount contributed by a participant into that participant's defined contribution account.

Section 79. Section **49-11-205** is amended to read:

49-11-205. Membership Council established -- Members -- Chair -- Duties -- Expenses and per diem.

(1) There is established a Membership Council to perform the duties under Subsection (5).

(2) The Membership Council shall be composed of 15 council members selected as follows:

(a) three council members shall be school employees selected by the governing board of an association representative of a majority of school employees who are members of a system administered by the board;

(b) one council member shall be a classified school employee selected by the governing board of the association representative of a majority of classified school employees who are members of a system administered by the board;

(c) two council members shall be public employees selected by the governing board of the association representative of a majority of the public employees who are members of a system administered by the board;

(d) one council member shall be a municipal officer or employee selected by the governing board of the association representative of a majority of the municipalities who participate in a system administered by the board;

(e) one council member shall be a county officer or employee selected by the governing board of the association representative of a majority of counties who participate in a system administered by the board;

(f) one council member shall be a representative of members of the Judges' Noncontributory Retirement System selected by the Judicial Council;

(g) one council member shall be a representative of members of the Public Safety Retirement Systems selected by the governing board of the association representative of the majority of peace officers who are members of the Public Safety Retirement Systems;

(h) one council member shall be a representative of members of the Firefighters' Retirement System selected by the governing board of the association representative of the majority of paid professional firefighters who are members of the Firefighters' Retirement System;

(i) one council member shall be a retiree selected by the governing board of the association representing the largest number of retirees, who are not public education retirees, from the Public Employees' Contributory, Public Employees' Noncontributory, and New Public Employees' Tier II Contributory Retirement Systems;

(j) one council member shall be a retiree selected by the governing board of the association representing the largest number of public education retirees;

(k) one council member shall be a school business official selected by the governing board of the association representative of a majority of the school business officials from public education employers who participate in a system administered by the board; and

(l) one council member shall be a special district officer or employee selected by the

governing board of the association representing the largest number of special service districts and [~~local~~] special districts who participate in a system administered by the board.

(3) (a) Each entity granted authority to select council members under Subsection (2) may also revoke the selection at any time.

(b) Each term on the council shall be for a period of four years, subject to Subsection (3)(a).

(c) Each term begins on July 1 and expires on June 30.

(d) When a vacancy occurs on the council for any reason, the replacement shall be selected for the remainder of the unexpired term.

(4) The council shall annually designate one council member as chair.

(5) The council shall:

(a) recommend to the board and to the Legislature benefits and policies for members of any system or plan administered by the board;

(b) recommend procedures and practices to improve the administration of the systems and plans and the public employee relations responsibilities of the board and office;

(c) examine the record of all decisions affecting retirement benefits made by a hearing officer under Section 49-11-613;

(d) submit nominations to the board for the position of executive director if that position is vacant;

(e) advise and counsel with the board and the director on policies affecting members of the various systems administered by the office; and

(f) perform other duties assigned to it by the board.

(6) A member of the council may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

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

Section 80. Section **51-4-2** is amended to read:

51-4-2. Deposits by political subdivisions.

(1) As used in this section:

(a) "Officer" means each:

(i) county treasurer, county auditor, county assessor, county clerk, clerk of the district court, city treasurer, city clerk, justice court judge; and

(ii) other officer of a political subdivision.

(b) "Political subdivision" means a county, city, town, school district, [~~local~~] special district, and special service district.

(2) (a) Each officer shall deposit all public funds daily, if practicable, but no later than once every three banking days.

(b) Each officer shall deposit all public funds only in qualified depositories unless the public funds need to be deposited in a bank outside Utah in order to provide for:

(i) payment of maturing bonds or other evidences of indebtedness; or

(ii) payment of the interest on bonds or other evidences of indebtedness.

(3) (a) (i) Each officer shall require all checks to be made payable to the office of the officer receiving funds or to the political subdivision's treasurer.

(ii) An officer may not accept a check unless it is made payable to the office of the officer receiving funds or to the political subdivision's treasurer.

(b) Each officer shall deposit all money the officer collects into an account controlled by the political subdivision's treasurer.

(4) (a) Except as provided in Subsection (4)(b) and unless a shorter time for depositing funds is otherwise required by law, each political subdivision that has collected funds that are due to the state or to another political subdivision of the state shall, on or before the tenth day of each month, pay all of those funds that were receipted during the last month:

(i) to a qualified depository for the credit of the appropriate public treasurer; or

(ii) to the appropriate public treasurer.

(b) Property tax collections shall be apportioned and paid according to Section 59-2-1365.

Section 81. Section **51-7-3** is amended to read:

51-7-3. Definitions.

As used in this chapter:

(1) "Agent" means "agent" as defined in Section 61-1-13.

(2) "Certified dealer" means:

(a) a primary reporting dealer recognized by the Federal Reserve Bank of New York who is certified by the director as having met the applicable criteria of council rule; or

(b) a broker dealer who:

(i) has and maintains an office and a resident registered principal in the state;

(ii) meets the capital requirements established by council rules;

(iii) meets the requirements for good standing established by council rule; and

(iv) is certified by the director as meeting quality criteria established by council rule.

(3) "Certified investment adviser" means a federal covered adviser, as defined in Section 61-1-13, or an investment adviser, as defined in Section 61-1-13, who is certified by the director as having met the applicable criteria of council rule.

(4) "Commissioner" means the commissioner of financial institutions.

(5) "Council" means the State Money Management Council created by Section 51-7-16.

(6) "Covered bond" means a publicly placed debt security issued by a bank, other regulated financial institution, or a subsidiary of either that is secured by a pool of loans that remain on the balance sheet of the issuer or its subsidiary.

(7) "Director" means the director of the Utah State Division of Securities of the Department of Commerce.

(8) (a) "Endowment funds" means gifts, devises, or bequests of property of any kind donated to a higher education institution from any source.

(b) "Endowment funds" does not mean money used for the general operation of a higher education institution that is received by the higher education institution from:

(i) state appropriations;

(ii) federal contracts;

(iii) federal grants;

(iv) private research grants; and

(v) tuition and fees collected from students.

(9) "First tier commercial paper" means commercial paper rated by at least two nationally recognized statistical rating organizations in the highest short-term rating category.

(10) "Funds functioning as endowments" means funds, regardless of source, whose corpus is intended to be held in perpetuity by formal institutional designation according to the

institution's policy for designating those funds.

(11) "GASB" or "Governmental Accounting Standards Board" means the Governmental Accounting Standards Board that is responsible for accounting standards used by public entities.

(12) "Hard put" means an unconditional sell-back provision or a redemption provision applicable at issue to a note or bond, allowing holders to sell their holdings back to the issuer or to an equal or higher-rated third party provider at specific intervals and specific prices determined at the time of issuance.

(13) "Higher education institution" means the institutions specified in Section 53B-1-102.

(14) "Investment adviser representative" is as defined in Section 61-1-13.

(15) (a) "Investment agreement" means any written agreement that has specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate.

(b) "Investment agreement" includes any agreement to supply investments on one or more future dates.

(16) "Local government" means a county, municipality, school district, [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, special service district under Title 17D, Chapter 1, Special Service District Act, or any other political subdivision of the state.

(17) "Market value" means market value as defined in the Master Repurchase Agreement.

(18) "Master Repurchase Agreement" means the current standard Master Repurchase Agreement approved by the Public Securities Association or by any successor organization.

(19) "Maximum amount" means, with respect to qualified depositories, the total amount of:

(a) deposits in excess of the federal deposit insurance limit; and

(b) nonqualifying repurchase agreements.

(20) "Money market mutual fund" means an open-end managed investment fund:

(a) that complies with the diversification, quality, and maturity requirements of Rule 2a-7 or any successor rule of the Securities and Exchange Commission applicable to money

market mutual funds; and

(b) that assesses no sales load on the purchase of shares and no contingent deferred sales charge or other similar charges, however designated.

(21) "Nationally recognized statistical rating organization" means an organization that has been designated as a nationally recognized statistical rating organization by the Securities and Exchange Commission's Division of Market Regulation.

(22) "Nonqualifying repurchase agreement" means a repurchase agreement evidencing indebtedness of a qualified depository arising from the transfer of obligations of the United States Treasury or other authorized investments to public treasurers that is:

(a) evidenced by a safekeeping receipt issued by the qualified depository;

(b) included in the depository's maximum amount of public funds; and

(c) valued and maintained at market value plus an appropriate margin collateral requirement based upon the term of the agreement and the type of securities acquired.

(23) "Operating funds" means current balances and other funds that are to be disbursed for operation of the state government or any of its boards, commissions, institutions, departments, divisions, agencies, or other similar instrumentalities, or any county, city, school district, political subdivision, or other public body.

(24) "Permanent funds" means funds whose principal may not be expended, the earnings from which are to be used for purposes designated by law.

(25) "Permitted depository" means any out-of-state financial institution that meets quality criteria established by rule of the council.

(26) "Public funds" means money, funds, and accounts, regardless of the source from which the money, funds, and accounts are derived, that are owned, held, or administered by the state or any of its boards, commissions, institutions, departments, divisions, agencies, bureaus, laboratories, or other similar instrumentalities, or any county, city, school district, political subdivision, or other public body.

(27) (a) "Public money" means "public funds."

(b) "Public money," as used in Article VII, Sec. 15, Utah Constitution, means the same as "state funds."

(28) "Public treasurer" includes the state treasurer and the official of any state board, commission, institution, department, division, agency, or other similar instrumentality, or of

any county, city, school district, charter school, political subdivision, or other public body who has the responsibility for the safekeeping and investment of any public funds.

(29) "Qualified depository" means a Utah depository institution or an out-of-state depository institution, as those terms are defined in Section 7-1-103, that is authorized to conduct business in this state under Section 7-1-702 or Title 7, Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, whose deposits are insured by an agency of the federal government and that has been certified by the commissioner of financial institutions as having met the requirements established under this chapter and the rules of the council to be eligible to receive deposits of public funds.

(30) "Qualifying repurchase agreement" means a repurchase agreement evidencing indebtedness of a financial institution or government securities dealer acting as principal arising from the transfer of obligations of the United States Treasury or other authorized investments to public treasurers only if purchased securities are:

(a) delivered to the public treasurer's safekeeping agent or custodian as contemplated by Section 7 of the Master Repurchase Agreement; and

(b) valued and maintained at market value plus an appropriate margin collateral requirement based upon the term of the agreement and the type of securities acquired.

(31) "Reciprocal deposits" means deposits that are initially deposited into a qualified depository and are then redeposited through a deposit account registry service:

(a) in one or more FDIC-insured depository institutions in amounts up to the relevant FDIC-insured deposit limit for a depositor in each depository institution; and

(b) in exchange for reciprocal FDIC-insured deposits made through the deposit account registry service to the qualified depository.

(32) "Securities division" means Utah's Division of Securities created within the Department of Commerce by Section 13-1-2.

(33) "State funds" means:

(a) public money raised by operation of law for the support and operation of the state government; and

(b) all other money, funds, and accounts, regardless of the source from which the money, funds, or accounts are derived, that are owned, held, or administered by the state or any of its boards, commissions, institutions, departments, divisions, agencies, bureaus, laboratories,

or other similar instrumentalities.

Section 82. Section **52-4-203** is amended to read:

52-4-203. Written minutes of open meetings -- Public records -- Recording of meetings.

(1) Except as provided under Subsection (7), written minutes and a recording shall be kept of all open meetings.

(2) (a) Written minutes of an open meeting shall include:

(i) the date, time, and place of the meeting;

(ii) the names of members present and absent;

(iii) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;

(iv) a record, by individual member, of each vote taken by the public body;

(v) the name of each person who:

(A) is not a member of the public body; and

(B) after being recognized by the presiding member of the public body, provided testimony or comments to the public body;

(vi) the substance, in brief, of the testimony or comments provided by the public under Subsection (2)(a)(v); and

(vii) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes or recording.

(b) A public body may satisfy the requirement under Subsection (2)(a)(iii) or (vi) that minutes include the substance of matters proposed, discussed, or decided or the substance of testimony or comments by maintaining a publicly available online version of the minutes that provides a link to the meeting recording at the place in the recording where the matter is proposed, discussed, or decided or the testimony or comments provided.

(c) A public body that has members who were elected to the public body shall satisfy the requirement described in Subsection (2)(a)(iv) by recording each vote:

(i) in list format;

(ii) by category for each action taken by a member, including yes votes, no votes, and absent members; and

(iii) by each member's name.

(3) A recording of an open meeting shall:

(a) be a complete and unedited record of all open portions of the meeting from the commencement of the meeting through adjournment of the meeting; and

(b) be properly labeled or identified with the date, time, and place of the meeting.

(4) (a) As used in this Subsection (4):

(i) "Approved minutes" means written minutes:

(A) of an open meeting; and

(B) that have been approved by the public body that held the open meeting.

(ii) "Electronic information" means information presented or provided in an electronic format.

(iii) "Pending minutes" means written minutes:

(A) of an open meeting; and

(B) that have been prepared in draft form and are subject to change before being approved by the public body that held the open meeting.

(iv) "Specified local public body" means a legislative body of a county, city, town, or metro township.

(v) "State public body" means a public body that is an administrative, advisory, executive, or legislative body of the state.

(vi) "State website" means the Utah Public Notice Website created under Section 63A-16-601.

(b) Pending minutes, approved minutes, and a recording of a public meeting are public records under Title 63G, Chapter 2, Government Records Access and Management Act.

(c) Pending minutes shall contain a clear indication that the public body has not yet approved the minutes or that the minutes are subject to change until the public body approves them.

(d) A public body shall require an individual who, at an open meeting of the public body, publicly presents or provides electronic information, relating to an item on the public body's meeting agenda, to provide the public body, at the time of the meeting, an electronic or hard copy of the electronic information for inclusion in the public record.

(e) A state public body shall:

(i) make pending minutes available to the public within 30 days after holding the open

meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes of an open meeting:

(A) post to the state website a copy of the approved minutes and any public materials distributed at the meeting;

(B) make the approved minutes and public materials available to the public at the public body's primary office; and

(C) if the public body provides online minutes under Subsection (2)(b), post approved minutes that comply with Subsection (2)(b) and the public materials on the public body's website; and

(iii) within three business days after holding an open meeting, post on the state website an audio recording of the open meeting, or a link to the recording.

(f) A specified local public body shall:

(i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes of an open meeting, post and make available a copy of the approved minutes and any public materials distributed at the meeting, as provided in Subsection (4)(e)(ii); and

(iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.

(g) A public body that is not a state public body or a specified local public body shall:

(i) make pending minutes available to the public within a reasonable time after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes of an open meeting:

(A) post and make available a copy of the approved minutes and any public materials distributed at the meeting, as provided in Subsection (4)(e)(ii); or

(B) comply with Subsections (4)(e)(ii)(B) and (C) and post to the state website a link to a website on which the approved minutes and any public materials distributed at the meeting are posted; and

(iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.

(h) A public body shall establish and implement procedures for the public body's

approval of the written minutes of each meeting.

(i) Approved minutes of an open meeting are the official record of the meeting.

(5) All or any part of an open meeting may be independently recorded by any person in attendance if the recording does not interfere with the conduct of the meeting.

(6) The written minutes or recording of an open meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.

(7) Notwithstanding Subsection (1), a recording is not required to be kept of:

(a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken by the public body; or

(b) an open meeting of a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, if the district's annual budgeted expenditures for all funds, excluding capital expenditures and debt service, are $50,000 or less.

Section 83. Section **52-8-102** is amended to read:

52-8-102. Definitions.

As used in this chapter:

(1) "Attribution" means to be responsible for the truth, correctness, and accuracy of a report.

(2) "Chief executive officer" means:

(a) the governor, for the state;

(b) the chair of the county commission or the county executive, for a county; and

(c) the mayor, for a municipality, or if governed under a council-manager form of government, the chair of the council.

(3) "Government entity" includes the state, its agencies and institutions, each county, municipality, school district, [~~local~~] special district, and special service district in Utah.

(4) "Promotional literature" means reports whose primary or secondary purpose is to provide nonresidents with information about the government entity that produced the report.

(5) (a) "Report" means each account, statement, record of proceedings, summary of activities, and other written or printed document required by statute that is prepared or

produced by a government entity that is distributed to the public.

(b) "Report" does not mean written or printed documents whose primary purpose is to provide biographical information about government officials.

Section 84. Section **53-2a-203** is amended to read:

53-2a-203. Definitions.

As used in this part:

(1) "Chief executive officer" means:

(a) for a municipality:

(i) the mayor for a municipality operating under all forms of municipal government except the council-manager form of government; or

(ii) the city manager for a municipality operating under the council-manager form of government;

(b) for a county:

(i) the chair of the county commission for a county operating under the county commission or expanded county commission form of government;

(ii) the county executive officer for a county operating under the county-executive council form of government; or

(iii) the county manager for a county operating under the council-manager form of government;

(c) for a special service district:

(i) the chief executive officer of the county or municipality that created the special service district if authority has not been delegated to an administrative control board as provided in Section 17D-1-301;

(ii) the chair of the administrative control board to which authority has been delegated as provided in Section 17D-1-301; or

(iii) the general manager or other officer or employee to whom authority has been delegated by the governing body of the special service district as provided in Section 17D-1-301; or

(d) for a [~~local~~] special district:

(i) the chair of the board of trustees selected as provided in Section 17B-1-309; or

(ii) the general manager or other officer or employee to whom authority has been

delegated by the board of trustees.

(2) "Executive action" means any of the following actions by the governor during a state of emergency:

(a) an order, a rule, or a regulation made by the governor as described in Section 53-2a-209;

(b) an action by the governor to suspend or modify a statute as described in Subsection 53-2a-204(1)(j); or

(c) an action by the governor to suspend the enforcement of a statute as described in Subsection 53-2a-209(4).

(3) "Exigent circumstances" means a significant change in circumstances following the expiration of a state of emergency declared in accordance with this chapter that:

(a) substantially increases the threat to public safety or health relative to the circumstances in existence when the state of emergency expired;

(b) poses an imminent threat to public safety or health; and

(c) was not known or foreseen and could not have been known or foreseen at the time the state of emergency expired.

(4) "Legislative emergency response committee" means the Legislative Emergency Response Committee created in Section 53-2a-218.

(5) "Local emergency" means a condition in any municipality or county of the state which requires that emergency assistance be provided by the affected municipality or county or another political subdivision to save lives and protect property within its jurisdiction in response to a disaster, or to avoid or reduce the threat of a disaster.

(6) "Long-term state of emergency" means a state of emergency:

(a) that lasts longer than 30 days; or

(b) declared to respond to exigent circumstances as described in Subsection 53-2a-206(3).

(7) "Political subdivision" means a municipality, county, special service district, or [~~local~~] special district.

Section 85. Section **53-2a-302** is amended to read:

53-2a-302. Definitions.

As used in this part:

(1) "Emergency responder":

(a) means a person in the public or private sector:

(i) who has special skills, qualification, training, knowledge, or experience, whether or not possessing a license, certificate, permit, or other official recognition for the skills, qualification, training, knowledge, or experience, that would benefit a participating political subdivision in responding to a locally declared emergency or in an authorized drill or exercise; and

(ii) whom a participating political subdivision requests or authorizes to assist in responding to a locally declared emergency or in an authorized drill or exercise; and

(b) includes:

(i) a law enforcement officer;

(ii) a firefighter;

(iii) an emergency medical services worker;

(iv) a physician, physician assistant, nurse, or other public health worker;

(v) an emergency management official;

(vi) a public works worker;

(vii) a building inspector;

(viii) an architect, engineer, or other design professional; or

(ix) a person with specialized equipment operations skills or training or with any other skills needed to provide aid in a declared emergency.

(2) "Participating political subdivision" means each county, municipality, public safety district, and public safety interlocal entity that has not adopted a resolution under Section 53-2a-306 withdrawing itself from the statewide mutual aid system.

(3) "Public safety district" means a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, that provides public safety service.

(4) "Public safety interlocal entity" means an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act, that provides public safety service.

(5) "Public safety service" means a service provided to the public to protect life and property and includes fire protection, police protection, emergency medical service, and

hazardous material response service.

(6) "Requesting political subdivision" means a participating political subdivision that requests emergency assistance under Section 53-2a-207 from one or more other participating political subdivisions.

(7) "Responding political subdivision" means a participating political subdivision that responds to a request under Section 53-2a-307 from a requesting political subdivision.

(8) "State" means the state of Utah.

(9) "Statewide mutual aid system" or "system" means the aggregate of all participating political subdivisions and the state.

Section 86. Section **53-2a-305** is amended to read:

53-2a-305. Agreements not affected by this part.

Nothing in this part may be construed:

(1) to limit the state, a county, municipality, [~~local~~] special district, special service district, or interlocal entity from entering into an agreement allowed by law for public safety and related purposes; or

(2) to affect an agreement to which the state, a county, municipality, [~~local~~] special district, special service district, or interlocal entity is a party.

Section 87. Section **53-2a-602** is amended to read:

53-2a-602. Definitions.

(1) Unless otherwise defined in this section, the terms that are used in this part mean the same as those terms are defined in Part 1, Emergency Management Act.

(2) As used in this part:

(a) "Agent of the state" means any representative of a state agency, local agency, or non-profit entity that agrees to provide support to a requesting intrastate or interstate government entity that has declared an emergency or disaster and has requested assistance through the division.

(b) "Declared disaster" means one or more events:

(i) within the state;

(ii) that occur within a limited period of time;

(iii) that involve:

(A) a significant number of persons being at risk of bodily harm, sickness, or death; or

(B) a significant portion of real property at risk of loss;

(iv) that are sudden in nature and generally occur less frequently than every three years; and

(v) that results in:

(A) the president of the United States declaring an emergency or major disaster in the state;

(B) the governor declaring a state of emergency under [~~Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act~~] Part 2 Disaster Response and Recovery Act; or

(C) the chief executive officer of a local government declaring a local emergency under Part 2, Disaster Response and Recovery Act.

(c) "Disaster recovery account" means the State Disaster Recovery Restricted Account created in Section 53-2a-603.

(d) (i) "Emergency disaster services" means:

(A) evacuation;

(B) shelter;

(C) medical triage;

(D) emergency transportation;

(E) repair of infrastructure;

(F) safety services, including fencing or roadblocks;

(G) sandbagging;

(H) debris removal;

(I) temporary bridges;

(J) procurement and distribution of food, water, or ice;

(K) procurement and deployment of generators;

(L) rescue or recovery;

(M) emergency protective measures; or

(N) services similar to those described in Subsections (2)(d)(i)(A) through (M), as defined by the division by rule, that are generally required in response to a declared disaster.

(ii) "Emergency disaster services" does not include:

(A) emergency preparedness; or

(B) notwithstanding whether or not a county participates in the Wildland Fire

Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs that may be paid for from the Wildland Fire Suppression Fund if the county participates in the Wildland Fire Suppression Fund.

(e) "Emergency preparedness" means the following done for the purpose of being prepared for an emergency as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) the purchase of equipment;

(ii) the training of personnel; or

(iii) the obtaining of a certification.

(f) "Governing body" means:

(i) for a county, city, or town, the legislative body of the county, city, or town;

(ii) for a [~~local~~] special district, the board of trustees of the [~~local~~] special district; and

(iii) for a special service district:

(A) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(B) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301.

[~~(g) "Local district" means the same as that term is defined in Section 17B-1-102.~~]

[~~(h)~~] (g) "Local fund" means a local government disaster fund created in accordance with Section 53-2a-605.

[~~(i)~~] (h) "Local government" means:

(i) a county;

(ii) a city or town; or

(iii) a [~~local~~] special district or special service district that:

(A) operates a water system;

(B) provides transportation service;

(C) provides, operates, and maintains correctional and rehabilitative facilities and programs for municipal, state, and other detainees and prisoners;

(D) provides consolidated 911 and emergency dispatch service;

(E) operates an airport; or

(F) operates a sewage system.

(i) "Special district" means the same as that term is defined in Section 17B-1-102.

(j) "Special fund" means a fund other than a general fund of a local government that is created for a special purpose established under the uniform system of budgeting, accounting, and reporting.

(k) "Special service district" means the same as that term is defined in Section 17D-1-102.

(l) "State's prime interest rate" means the average interest rate paid by the state on general obligation bonds issued during the most recent fiscal year in which bonds were sold.

Section 88. Section **53-2a-605** is amended to read:

53-2a-605. Local government disaster funds.

(1) (a) Subject to this section and notwithstanding anything to the contrary contained in Title 10, Utah Municipal Code, {[}or{]} Title 17, Counties, [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, or Title 17D, Chapter 1, Special Service District Act, the governing body of a local government may create and maintain by ordinance a special fund known as a local government disaster fund.

(b) The local fund shall consist of:

(i) subject to the limitations of this section, money transferred to it in accordance with Subsection (2);

(ii) any other public or private money received by the local government that is:

(A) given to the local government for purposes consistent with this section; and

(B) deposited into the local fund at the request of:

(I) the governing body of the local government; or

(II) the person giving the money; and

(iii) interest or income realized from the local fund.

(c) Interest or income realized from the local fund shall be deposited into the local fund.

(d) Money in a local fund may be:

(i) deposited or invested as provided in Section 51-7-11; or

(ii) transferred by the local government treasurer to the state treasurer under Section 51-7-5 for the state treasurer's management and control under Title 51, Chapter 7, State Money

Management Act.

(e) (i) The money in a local fund may accumulate from year to year until the local government governing body determines to spend any money in the local fund for one or more of the purposes specified in Subsection (3).

(ii) Money in a local fund at the end of a fiscal year:

(A) shall remain in the local fund for future use; and

(B) may not be transferred to any other fund or used for any other purpose.

(2) The amounts transferred to a local fund may not exceed 10% of the total estimated revenues of the local government for the current fiscal period that are not restricted or otherwise obligated.

(3) Money in the fund may only be used to fund the services and activities of the local government creating the local fund in response to:

(a) a declared disaster within the boundaries of the local government;

(b) the aftermath of the disaster that gave rise to a declared disaster within the boundaries of the local government; and

(c) subject to Subsection (5), emergency preparedness.

(4) (a) A local fund is subject to this part and:

(i) in the case of a town, Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, except that:

(A) in addition to the funds listed in Section 10-5-106, the mayor shall prepare a budget for the local fund;

(B) Section 10-5-119 addressing termination of special funds does not apply to a local fund; and

(C) the council of the town may not authorize an interfund loan under Section 10-5-120 from the local fund;

(ii) in the case of a city, Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, except that:

(A) in addition to the funds listed in Section 10-6-109, the mayor shall prepare a budget for the local fund;

(B) Section 10-6-131 addressing termination of special funds does not apply to a local fund; and

(C) the governing body of the city may not authorize an interfund loan under Section 10-6-132 from the local fund; and

(iii) in the case of a county, Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, except that:

(A) Section 17-36-29 addressing termination of special funds does not apply to a local fund; and

(B) the governing body of the county may not authorize an interfund loan under Section 17-36-30 from the local fund;

(iv) in the case of a [~~local~~] special district or special service district, [~~Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts~~] Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts, except that:

(A) Section 17B-1-625, addressing termination of a special fund, does not apply to a local fund; and

(B) the governing body of the [~~local~~] special district or special service district may not authorize an interfund loan under Section 17B-1-626 from the local fund; and

(v) in the case of an interlocal entity, Title 11, Chapter 13, Part 5, Fiscal Procedures for Interlocal Entities, except for the following provisions:

(A) Section 11-13-522 addressing termination of a special fund does not apply to a local fund; and

(B) the governing board of the interlocal entity may not authorize an interfund loan under Section 11-13-523 from the local fund.

(b) Notwithstanding Subsection (4)(a), transfers of money to a local fund or the accumulation of money in a local fund do not affect any limits on fund balances, net assets, or the accumulation of retained earnings in any of the following of a local government:

(i) a general fund;

(ii) an enterprise fund;

(iii) an internal service fund; or

(iv) any other fund.

(5) (a) A local government may not expend during a fiscal year more than 10% of the money budgeted to be deposited into a local fund during that fiscal year for emergency preparedness.

(b) The amount described in Subsection (5)(a) shall be determined before the adoption of the tentative budget.

Section 89. Section **53-2a-1301** is amended to read:

53-2a-1301. Definitions.

As used in the part:

(1) "Account" means the Post Disaster Recovery and Mitigation Restricted Account created in Section 53-2a-1302.

(2) "Affected community" means a community directly affected by an ongoing or recent disaster.

(3) "Chief executive officer" means the same as that term is defined in Section 53-2a-203.

(4) "Community" means a county, municipality, [~~local~~] special district, or special service district.

(5) "Costs not recoverable" include:

(a) the county threshold; and

(b) costs covered by insurance or federal government grants, including funding provided to the state by FEMA's Public Assistance grant program described in 44 C.F.R. Chapter 1, Subchapter D, Part 206.

(6) "County threshold" means, for each county, the countywide per capita indicator established by FEMA for the state, multiplied by the population of the county as determined by the division.

(7) "Disaster recovery" means action taken to remove debris, implement life-saving emergency protective measures, or repair, replace, or restore facilities in response to a disaster.

(8) "Disaster recovery grant" means money granted to an affected community for disaster recovery that amounts to not more than 75% of the difference between the cost of disaster recovery, as determined by the division after reviewing the official damage assessment, and costs not recoverable.

(9) "FEMA" means the Federal Emergency Management Agency.

(10) "Post hazard mitigation" means action taken, after a natural disaster, to reduce or eliminate risk to people or property that may occur as a result of the long-term effects of the natural disaster or a subsequent natural disaster, including action to prevent damage caused by

flooding, earthquake, dam failure, wildfire, landslide, severe weather, drought, and problem soil.

(11) "Post hazard mitigation grant" means money granted to a community for post hazard mitigation that amounts to not more than 75% of the costs deemed necessary by the division to complete the post hazard mitigation.

(12) "Official damage assessment" means a financial assessment of the damage to an affected community, caused by a disaster, that is conducted under the direction of the governing body of the affected community, in accordance with the rules described in Section 53-2a-1305.

Section 90. Section **53-3-207** is amended to read:

53-3-207. License certificates or driving privilege cards issued to drivers by class of motor vehicle -- Contents -- Release of anatomical gift information -- Temporary licenses or driving privilege cards -- Minors' licenses, cards, and permits -- Violation.

(1) As used in this section:

(a) "Driving privilege" means the privilege granted under this chapter to drive a motor vehicle.

(b) "Governmental entity" means the state or a political subdivision of the state.

(c) "Health care professional" means:

(i) a licensed physician, physician assistant, nurse practitioner, or mental health therapist; or

(ii) any other licensed health care professional the division designates by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Political subdivision" means any county, city, town, school district, public transit district, community reinvestment agency, special improvement or taxing district, [~~local~~] special district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(e) "Invisible condition" means a physical or mental condition that may interfere with an individual's ability to communicate with a law enforcement officer, including:

(i) a communication impediment;

(ii) hearing loss;

(iii) blindness or a visual impairment;

(iv) autism spectrum disorder;

(v) a drug allergy;

(vi) Alzheimer's disease or dementia;

(vii) post-traumatic stress disorder;

(viii) traumatic brain injury;

(ix) schizophrenia;

(x) epilepsy;

(xi) a developmental disability;

(xii) Down syndrome;

(xiii) diabetes;

(xiv) a heart condition; or

(xv) any other condition approved by the department.

(f) "Invisible condition identification symbol" means a symbol or alphanumeric code that indicates that an individual is an individual with an invisible condition.

(g) "State" means this state, and includes any office, department, agency, authority, commission, board, institution, hospital, college, university, children's justice center, or other instrumentality of the state.

(2) (a) The division shall issue to every individual privileged to drive a motor vehicle, a regular license certificate, a limited-term license certificate, or a driving privilege card indicating the type or class of motor vehicle the individual may drive.

(b) An individual may not drive a class of motor vehicle unless granted the privilege in that class.

(3) (a) Every regular license certificate, limited-term license certificate, or driving privilege card shall bear:

(i) the distinguishing number assigned to the individual by the division;

(ii) the name, birth date, and Utah residence address of the individual;

(iii) a brief description of the individual for the purpose of identification;

(iv) any restrictions imposed on the license under Section 53-3-208;

(v) a photograph of the individual;

(vi) a photograph or other facsimile of the individual's signature;

(vii) an indication whether the individual intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, unless the driving privilege is extended under Subsection 53-3-214(3); and

(viii) except as provided in Subsection (3)(b), if the individual states that the individual is a veteran of the United States military on the application for a driver license in accordance with Section 53-3-205 and provides verification that the individual was granted an honorable or general discharge from the United States Armed Forces, an indication that the individual is a United States military veteran for a regular license certificate or limited-term license certificate issued on or after July 1, 2011.

(b) A regular license certificate or limited-term license certificate issued to an individual younger than 21 years old on a portrait-style format as required in Subsection (7)(b) is not required to include an indication that the individual is a United States military veteran under Subsection (3)(a)(viii).

(c) A new license certificate issued by the division may not bear the individual's social security number.

(d) (i) The regular license certificate, limited-term license certificate, or driving privilege card shall be of an impervious material, resistant to wear, damage, and alteration.

(ii) The size, form, and color of the regular license certificate, limited-term license certificate, or driving privilege card shall be as prescribed by the commissioner.

(iii) The commissioner may also prescribe the issuance of a special type of limited regular license certificate, limited-term license certificate, or driving privilege card under Subsection 53-3-220(4).

(4) (a) The division shall include or affix an invisible condition identification symbol on an individual's regular license certificate, limited-term license certificate, or driving privilege card if the individual, on a form prescribed by the department:

(i) requests the division to include the invisible condition identification symbol;

(ii) provides written verification from a health care professional that the individual is an individual with an invisible condition; and

(iii) signs a waiver of liability for the release of any medical information to:

(A) the department;

(B) any person who has access to the individual's medical information as recorded on

the individual's driving record or the Utah Criminal Justice Information System under this chapter; and

(C) any other person who may view or receive notice of the individual's medical information by seeing the individual's regular license certificate, limited-term license certificate, or driving privilege card or the individual's information in the Utah Criminal Justice Information System.

(b) As part of the form described in Subsection (4)(a), the department shall advise the individual that by submitting the signed waiver, the individual consents to the release of the individual's medical information to any person described in Subsections (4)(a)(iii)(A) through (C), even if the person is otherwise ineligible to access the individual's medical information under state or federal law.

(c) The division may not:

(i) charge a fee to include the invisible condition identification symbol on the individual's regular license certificate, limited-term license certificate, or driving privilege card; or

(ii) after including the invisible condition identification symbol on the individual's previously issued regular license certificate, limited-term license certificate, or driving privilege card, require the individual to provide subsequent written verification described in Subsection (4)(a)(ii) to include the invisible condition identification symbol on the individual's renewed or extended regular license certificate, limited-term license certificate, or driving privilege card.

(d) The inclusion of an invisible condition identification symbol on an individual's license certificate, limited-term license certificate, or driving privilege card in accordance with Subsection (4)(a) does not confer any legal rights or privileges on the individual, including parking privileges for individuals with disabilities under Section 41-1a-414.

(e) For each individual issued a regular license certificate, limited-term license certificate, or driving privilege card under this section that includes an invisible condition identification symbol, the division shall include in the division's database a brief description of the nature of the individual's invisible condition in the individual's record and provide the brief description to the Utah Criminal Justice Information System.

(f) Except as provided in this section, the division may not release the information

described in Subsection (4)(e).

(g) Within 30 days after the day on which the division receives an individual's written request, the division shall:

(i) remove from the individual's record in the division's database the invisible condition identification symbol and the brief description described in Subsection (4)(e); and

(ii) provide the individual's updated record to the Utah Criminal Justice Information System.

(5) As provided in Section 63G-2-302, the information described in Subsection (4)(a) is a private record for purposes of Title 63G, Chapter 2, Government Records Access and Management Act.

(6) (a) (i) The division, upon determining after an examination that an applicant is mentally and physically qualified to be granted a driving privilege, may issue to an applicant a receipt for the fee if the applicant is eligible for a regular license certificate or limited-term license certificate.

(ii) (A) The division shall issue a temporary regular license certificate or temporary limited-term license certificate allowing the individual to drive a motor vehicle while the division is completing the division's investigation to determine whether the individual is entitled to be granted a driving privilege.

(B) A temporary regular license certificate or a temporary limited-term license certificate issued under this Subsection (6) shall be recognized and have the same rights and privileges as a regular license certificate or a limited-term license certificate.

(b) The temporary regular license certificate or temporary limited-term license certificate shall be in the individual's immediate possession while driving a motor vehicle, and the temporary regular license certificate or temporary limited-term license certificate is invalid when the individual's regular license certificate or limited-term license certificate has been issued or when, for good cause, the privilege has been refused.

(c) The division shall indicate on the temporary regular license certificate or temporary limited-term license certificate a date after which the temporary regular license certificate or temporary limited-term license certificate is not valid as a temporary license.

(d) (i) Except as provided in Subsection (6)(d)(ii), the division may not issue a temporary driving privilege card or other temporary permit to an applicant for a driving

privilege card.

(ii) The division may issue a learner permit issued in accordance with Section 53-3-210.5 to an applicant for a driving privilege card.

(7) (a) The division shall distinguish learner permits, temporary permits, regular license certificates, limited-term license certificates, and driving privilege cards issued to any individual younger than 21 years old by use of plainly printed information or the use of a color or other means not used for other regular license certificates, limited-term license certificates, or driving privilege cards.

(b) The division shall distinguish a regular license certificate, limited-term license certificate, or driving privilege card issued to an individual younger than 21 years old by use of a portrait-style format not used for other regular license certificates, limited-term license certificates, or driving privilege cards and by plainly printing the date the regular license certificate, limited-term license certificate, or driving privilege card holder is 21 years old.

(8) The division shall distinguish a limited-term license certificate by clearly indicating on the document:

(a) that the limited-term license certificate is temporary; and

(b) the limited-term license certificate's expiration date.

(9) (a) The division shall only issue a driving privilege card to an individual whose privilege was obtained without providing evidence of lawful presence in the United States as required under Subsection 53-3-205(8).

(b) The division shall distinguish a driving privilege card from a license certificate by:

(i) use of a format, color, font, or other means; and

(ii) clearly displaying on the front of the driving privilege card a phrase substantially similar to "FOR DRIVING PRIVILEGES ONLY -- NOT VALID FOR IDENTIFICATION".

(10) The provisions of Subsection (7)(b) do not apply to a learner permit, temporary permit, temporary regular license certificate, temporary limited-term license certificate, or any other temporary permit.

(11) The division shall issue temporary license certificates of the same nature, except as to duration, as the license certificates that they temporarily replace, as are necessary to implement applicable provisions of this section and Section 53-3-223.

(12) (a) A governmental entity may not accept a driving privilege card as proof of

personal identification.

(b) A driving privilege card may not be used as a document providing proof of an individual's age for any government required purpose.

(13) An individual who violates Subsection (2)(b) is guilty of an infraction.

(14) Unless otherwise provided, the provisions, requirements, classes, endorsements, fees, restrictions, and sanctions under this code apply to a:

(a) driving privilege in the same way as a license or limited-term license issued under this chapter; and

(b) limited-term license certificate or driving privilege card in the same way as a regular license certificate issued under this chapter.

Section 91. Section **53-5-708** is amended to read:

53-5-708. Permit -- Names private.

(1) (a) The bureau shall maintain a record in its office of any permit issued under this part.

(b) Notwithstanding the requirements of Subsection 63G-2-301(2)(b), the names, addresses, telephone numbers, dates of birth, and Social Security numbers of persons receiving permits are protected records under Subsection 63G-2-305(11).

(c) Notwithstanding Section 63G-2-206, a person may not share any of the information listed in Subsection (1)(b) with any office, department, division, or other agency of the federal government unless:

(i) the disclosure is necessary to conduct a criminal background check on the individual who is the subject of the information;

(ii) the disclosure of information is made pursuant to a court order directly associated with an active investigation or prosecution of the individual who is the subject of the information;

(iii) the disclosure is made to a criminal justice agency in a criminal investigation or prosecution;

(iv) the disclosure is made by a law enforcement agency within the state to another law enforcement agency in the state or in another state in connection with an investigation, including a preliminary investigation, or a prosecution of the individual who is the subject of the information;

(v) the disclosure is made by a law enforcement agency within the state to an employee of a federal law enforcement agency in the course of a combined law enforcement effort involving the law enforcement agency within the state and the federal law enforcement agency; or

(vi) the disclosure is made in response to a routine request that a federal law enforcement officer makes to obtain information on an individual whom the federal law enforcement officer detains, including for a traffic stop, or questions because of the individual's suspected violation of state law.

(d) A person is guilty of a class A misdemeanor if the person knowingly:

(i) discloses information listed in Subsection (1)(b) in violation of the provisions under Title 63G, Chapter 2, Government Records Access and Management Act, applicable to protected records; or

(ii) shares information in violation of Subsection (1)(c).

(e) (i) As used in this Subsection (1)(e), "governmental agency" means:

(A) the state or any department, division, agency, or other instrumentality of the state; or

(B) a political subdivision of the state, including a county, city, town, school district, [~~local~~] special district, and special service district.

(ii) A governmental agency may not compel or attempt to compel an individual who has been issued a concealed firearm permit to divulge whether the individual:

(A) has been issued a concealed firearm permit; or

(B) is carrying a concealed firearm.

(iii) Subsection (1)(e)(ii) does not apply to a law enforcement officer.

(2) The bureau shall immediately file a copy of each permit it issues under this part.

Section 92. Section **53-7-104** is amended to read:

53-7-104. Enforcement of state fire code and rules -- Division of authority and responsibility.

(1) The authority and responsibility for enforcing the state fire code and rules made under this chapter is divided as provided in this section.

(2) The fire officers of any city or county shall enforce the state fire code and rules of the state fire marshal in their respective areas.

(3) The state fire marshal may enforce the state fire code and rules in:

(a) areas outside of corporate cities, fire protection districts, and other [~~local~~] special districts or special service districts organized for fire protection purposes;

(b) state-owned property, school district owned property, and privately owned property used for schools located within corporate cities and county fire protection districts, asylums, mental hospitals, hospitals, sanitariums, homes for the aged, residential health-care facilities, children's homes or institutions, or similar institutional type occupancy of any capacity; and

(c) corporate cities, counties, fire protection districts, and special service districts organized for fire protection purposes upon receiving a request from the chief fire official or the local governing body.

Section 93. Section **53-21-101** is amended to read:

53-21-101. Definitions.

As used in this chapter:

(1) "Crime scene investigator technician" means an individual employed by a law enforcement agency to collect and analyze evidence from crime scenes and crime-related incidents.

(2) "Department" means the Department of Public Safety.

(3) "First responder" means:

(a) a law enforcement officer, as defined in Section 53-13-103;

(b) an emergency medical technician, as defined in Section 26-8c-102;

(c) an advanced emergency medical technician, as defined in Section 26-8c-102;

(d) a paramedic, as defined in Section 26-8c-102;

(e) a firefighter, as defined in Section 34A-3-113;

(f) a dispatcher, as defined in Section 53-6-102;

(g) a correctional officer, as defined in Section 53-13-104;

(h) a special function officer, as defined in Section 53-13-105, employed by a local sheriff;

(i) a search and rescue worker under the supervision of a local sheriff;

(j) a credentialed criminal justice system victim advocate as defined in Section 77-38-403 who responds to incidents with a law enforcement officer;

(k) a crime scene investigator technician; or

(l) a wildland firefighter.

(4) "First responder agency" means a [~~local~~] special district, municipality, interlocal entity, or other political subdivision that employs a first responder to provide fire protection, paramedic, law enforcement, or emergency services.

(5) "Mental health resources" means:

(a) an assessment to determine appropriate mental health treatment that is performed by a mental health therapist;

(b) outpatient mental health treatment provided by a mental health therapist; or

(c) peer support services provided by a peer support specialist who is qualified to provide peer support services under Subsection 62A-15-103(2)(h).

(6) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(7) "Plan" means a plan to implement or expand a program that provides mental health resources to first responders for which the division awards a grant under this chapter.

Section 94. Section **53B-16-104** is amended to read:

53B-16-104. Restrictions on higher education entities bidding on architect or engineering services in public procurement projects.

(1) As used in this section:

(a) "Architect-engineer services" means those professional services within the scope of the practice of architecture as defined in Section 58-3a-102, or professional engineering as defined in Section 58-22-102.

(b) "Government entity" means a state agency, an institution of higher education, a county, a municipality, a local school district, a [~~local~~] special district, or a special service district.

(2) When a government entity elects to obtain architect or engineering services by using a competitive procurement process and has provided public notice of its competitive procurement process:

(a) a higher education entity, or any part of one, may not submit a proposal in response to the government entity's competitive procurement process; and

(b) the government entity may not award a contract to perform the architect or engineering services solicited in the competitive procurement process to a higher education

entity or any part of one.

(3) (a) Subject to the prohibition contained in Subsection (3)(b), an employee of a higher education entity may, in a private capacity, submit a proposal in response to the competitive procurement process.

(b) An employee of a higher education entity may not use any supplies, materials, or other resources owned by, or any persons matriculating at, attending, or employed by, the higher education entity in:

(i) preparing a response to the competitive procurement process; or

(ii) completing any work, assignment, or contract awarded to the employee resulting from that competitive procurement process.

Section 95. Section **53B-28-402** is amended to read:

53B-28-402. Campus safety study -- Report to Legislature.

(1) As used in this section:

(a) "Campus law enforcement" means a unit of an institution that provides public safety services.

(b) (i) "Institution" means an institution of higher education described in Section 53B-2-101.

(ii) "Institution" includes an institution's campus law enforcement.

[~~(c) "Local district" means the same as that term is defined in Section 17B-1-102.~~]

[~~(d)~~] (c) "Local law enforcement" means a state or local law enforcement agency other than campus law enforcement.

[~~(e)~~] (d) "Public safety services" means police services, security services, dispatch services, emergency services, or other similar services.

[~~(f)~~] (e) "Sexual violence" means the same as that term is defined in Section 53B-28-301.

(f) "Special district" means the same as that term is defined in Section 17B-1-102.

(g) "Special service district" means the same as that term is defined in Section 17D-1-102.

(h) "Student" means the same as that term is defined in Section 53B-28-301.

(i) "Student organization" means the same as that term is defined in Section 53B-28-401.

(2) The board shall:

(a) study issues related to providing public safety services on institution campuses, including:

(i) policies and practices for hiring, supervision, and firing of campus law enforcement officers;

(ii) training of campus law enforcement in responding to incidents of sexual violence or other crimes reported by or involving a student, including training related to lethality or similar assessments;

(iii) how campus law enforcement and local law enforcement respond to reports of incidents of sexual violence or other crimes reported by or involving a student, including supportive measures for victims and disciplinary actions for perpetrators;

(iv) training provided to faculty, staff, students, and student organizations on campus safety and prevention of sexual violence;

(v) roles, responsibilities, jurisdiction, and authority of local law enforcement and campus law enforcement, including authority based on:

(A) the type of public safety services provided; or

(B) geographic boundaries;

(vi) how an institution and local law enforcement coordinate to respond to on-campus and off-campus incidents requiring public safety services, including:

(A) legal requirements or restrictions affecting coordination;

(B) agreements, practices, or procedures governing coordination between an institution and local law enforcement, including mutual support, sharing information, or dispatch management; ~~{~~}and

(C) any issues that may affect the timeliness of a response to an on-campus or off-campus incident reported by or involving a student;

(vii) infrastructure, staffing, and equipment considerations that impact the effectiveness of campus law enforcement or local law enforcement responses to an on-campus or off-campus incident reported by or involving a student;

(viii) the benefits and disadvantages of an institution employing campus law enforcement compared to local law enforcement providing public safety services on an institution campus;

(ix) an institution's compliance with federal and state crime statistic reporting requirements;

(x) how an institution informs faculty, staff, and students about a crime or emergency on campus;

(xi) national best practices for providing public safety services on institution campuses, including differences in best practices based on the size, infrastructure, location, and other relevant characteristics of a college or university; and

(xii) any other issue the board determines is relevant to the study;

(b) make recommendations for providing public safety services on institution campuses statewide;

(c) produce a final report of the study described in this section, including the recommendations described in Subsection (2)(b); and

(d) in accordance with Section 68-3-14, present the final report described in Subsection (2)(c) to the Education Interim Committee and the Law Enforcement and Criminal Justice Interim Committee at or before the committees' November 2021 meetings.

(3) In carrying out the board's duties under this section, the board may coordinate with individuals and organizations with knowledge, expertise, or experience related to the board's duties under this section, including:

(a) the [~~Utah~~] Department of Health;

(b) the Utah Office for Victims of Crime;

(c) the Utah Council on Victims of Crime;

(d) institutions;

(e) local law enforcement;

(f) [~~local~~] special districts or special service districts that provide 911 and emergency dispatch service; and

(g) community and other non-governmental organizations.

Section 96. Section **53G-3-204** is amended to read:

53G-3-204. Notice before preparing or amending a long-range plan or acquiring certain property.

(1) As used in this section:

(a) "Affected entity" means each county, municipality, [~~local~~] special district under

[~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, special service district under Title 17D, Chapter 1, Special Service District Act, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

(i) whose services or facilities are likely to require expansion or significant modification because of an intended use of land; or

(ii) that has filed with the school district a copy of the general or long-range plan of the county, municipality, [~~local~~] special district, special service district, school district, interlocal cooperation entity, or specified public utility.

(b) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(2) (a) If a school district located in a county of the first or second class prepares a long-range plan regarding the school district's facilities proposed for the future or amends an already existing long-range plan, the school district shall, before preparing a long-range plan or amendments to an existing long-range plan, provide written notice, as provided in this section, of the school district's intent to prepare a long-range plan or to amend an existing long-range plan.

(b) Each notice under Subsection (2)(a) shall:

(i) indicate that the school district intends to prepare a long-range plan or to amend a long-range plan, as the case may be;

(ii) describe or provide a map of the geographic area that will be affected by the long-range plan or amendments to a long-range plan;

(iii) be:

(A) sent to each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed long-range plan or amendments to a long-range plan are expected to indicate that the proposed facilities will be located;

(B) sent to each affected entity;

(C) sent to the Utah Geospatial Resource Center created in Section 63A-16-505;

(D) sent to each association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality described in Subsection (2)(b)(iii)(A) is a member; and

(E) placed on the Utah Public Notice Website created under Section 63A-16-601;

(iv) with respect to the notice to counties and municipalities described in Subsection (2)(b)(iii)(A) and affected entities, invite them to provide information for the school district to consider in the process of preparing, adopting, and implementing the long-range plan or amendments to a long-range plan concerning:

(A) impacts that the use of land proposed in the proposed long-range plan or amendments to a long-range plan may have on the county, municipality, or affected entity; and

(B) uses of land that the county, municipality, or affected entity is planning or considering that may conflict with the proposed long-range plan or amendments to a long-range plan; and

(v) include the address of an Internet website, if the school district has one, and the name and telephone number of an individual where more information can be obtained concerning the school district's proposed long-range plan or amendments to a long-range plan.

(3) (a) Except as provided in Subsection (3)(d), each school district intending to acquire real property in a county of the first or second class for the purpose of expanding the district's infrastructure or other facilities shall provide written notice, as provided in this Subsection (3), of the school district's intent to acquire the property if the intended use of the property is contrary to:

(i) the anticipated use of the property under the county or municipality's general plan; or

(ii) the property's current zoning designation.

(b) Each notice under Subsection (3)(a) shall:

(i) indicate that the school district intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (3) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (3)(a) does not apply if the school district

previously provided notice under Subsection (2) identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a school district is not required to comply with the notice requirement of Subsection (3)(a) because of application of Subsection (3)(d)(i), the school district shall provide the notice specified in Subsection (3)(a) as soon as practicable after the school district's acquisition of the real property.

Section 97. Section **53G-4-402** is amended to read:

53G-4-402. Powers and duties generally.

(1) A local school board shall:

(a) implement the core standards for Utah public schools using instructional materials that best correlate to the core standards for Utah public schools and graduation requirements;

(b) administer tests, required by the state board, which measure the progress of each student, and coordinate with the state superintendent and state board to assess results and create plans to improve the student's progress, which shall be submitted to the state board for approval;

(c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;

(d) for each grading period and for each course in which a student is enrolled, issue a grade or performance report to the student:

(i) that reflects the student's work, including the student's progress based on mastery, for the grading period; and

(ii) in accordance with the local school board's adopted grading or performance standards and criteria;

(e) develop early warning systems for students or classes failing to make progress;

(f) work with the state board to establish a library of documented best practices, consistent with state and federal regulations, for use by the [~~local~~] special districts;

(g) implement training programs for school administrators, including basic management training, best practices in instructional methods, budget training, staff management, managing for learning results and continuous improvement, and how to help every child achieve optimal learning in basic academic subjects; and

(h) ensure that the local school board meets the data collection and reporting standards described in Section 53E-3-501.

(2) Local school boards shall spend Minimum School Program funds for programs and activities for which the state board has established minimum standards or rules under Section 53E-3-501.

(3) (a) A local school board may purchase, sell, and make improvements on school sites, buildings, and equipment and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on local school board resolution affirmed by at least two-thirds of the members.

(4) (a) A local school board may participate in the joint construction or operation of a school attended by children residing within the district and children residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

(i) be signed by the president of the local school board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the state board.

(5) A local school board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) Except as provided in Section 53E-3-905, a local school board may enroll children in school who are at least five years old before September 2 of the year in which admission is sought.

(7) A local school board may establish and support school libraries.

(8) A local school board may collect damages for the loss, injury, or destruction of school property.

(9) A local school board may authorize guidance and counseling services for children and their parents before, during, or following enrollment of the children in schools.

(10) (a) A local school board shall administer and implement federal educational programs in accordance with Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

(b) Federal funds are not considered funds within the school district budget under Chapter 7, Part 3, Budgets.

(11) (a) A local school board may organize school safety patrols and adopt policies under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.

(12) (a) A local school board may on its own behalf, or on behalf of an educational institution for which the local school board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

(b) These contributions are not subject to appropriation by the Legislature.

(13) (a) A local school board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection 76-10-105(2)(b).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

(14) A local school board shall adopt bylaws and policies for the local school board's own procedures.

(15) (a) A local school board shall make and enforce policies necessary for the control and management of the district schools.

(b) Local school board policies shall be in writing, filed, and referenced for public access.

(16) A local school board may hold school on legal holidays other than Sundays.

(17) (a) A local school board shall establish for each school year a school traffic safety committee to implement this Subsection (17).

(b) The committee shall be composed of one representative of:

(i) the schools within the district;

(ii) the Parent Teachers' Association of the schools within the district;

(iii) the municipality or county;

(iv) state or local law enforcement; and

(v) state or local traffic safety engineering.

(c) The committee shall:

(i) receive suggestions from school community councils, parents, teachers, and others and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;

(iii) consult the Utah Safety Council and the Division of Family Health Services and provide training to all school children in kindergarten through grade 6, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.

(d) The committee may establish subcommittees as needed to assist in accomplishing the committee's duties under Subsection (17)(c).

(18) (a) A local school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in the local school board's public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events.

(b) The plan shall:

(i) include prevention, intervention, and response components;

(ii) be consistent with the student conduct and discipline policies required for school districts under Chapter 11, Part 2, Miscellaneous Requirements;

(iii) require professional learning for all district and school building staff on what their roles are in the emergency response plan;

(iv) provide for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (18)(a); and

(v) include procedures to notify a student, to the extent practicable, who is off campus at the time of a school violence emergency because the student is:

(A) participating in a school-related activity; or

(B) excused from school for a period of time during the regular school day to participate in religious instruction at the request of the student's parent.

(c) The state board, through the state superintendent, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (18)(a).

(d) A local school board shall, by July 1 of each year, certify to the state board that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and their parents and local law enforcement and public safety representatives.

(19) (a) A local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require professional learning on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The local school board, in collaboration with the schools referred to in Subsection (19)(b), may review the plan each year and make revisions when required to improve or enhance the plan.

(e) The state board, through the state superintendent, shall provide local school boards with an emergency plan response model that local school boards may use to comply with the requirements of this Subsection (19).

(20) A local school board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

(21) (a) Before closing a school or changing the boundaries of a school, a local school board shall:

(i) at least 120 days before approving the school closure or school boundary change, provide notice to the following that the local school board is considering the closure or boundary change:

(A) parents of students enrolled in the school, using the same form of communication the local school board regularly uses to communicate with parents;

(B) parents of students enrolled in other schools within the school district that may be affected by the closure or boundary change, using the same form of communication the local school board regularly uses to communicate with parents; and

(C) the governing council and the mayor of the municipality in which the school is located;

(ii) provide an opportunity for public comment on the proposed school closure or school boundary change during at least two public local school board meetings; and

(iii) hold a public hearing as defined in Section 10-9a-103 and provide public notice of the public hearing as described in Subsection (21)(b).

(b) The notice of a public hearing required under Subsection (21)(a)(iii) shall:

(i) indicate the:

(A) school or schools under consideration for closure or boundary change; and

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

(ii) at least 10 days before the public hearing, be:

(A) published:

(I) in a newspaper of general circulation in the area; and

(II) on the Utah Public Notice Website created in Section 63A-16-601; and

(B) posted in at least three public locations within the municipality in which the school is located on the school district's official website, and prominently at the school; and

(iii) at least 30 days before the public hearing described in Subsection (21)(a)(iii), be provided as described in Subsections (21)(a)(i)(A), (B), and (C).

(22) A local school board may implement a facility energy efficiency program established under Title 11, Chapter 44, Performance Efficiency Act.

(23) A local school board may establish or partner with a certified youth court in

accordance with Section 80-6-902 or establish or partner with a comparable restorative justice program, in coordination with schools in that district. A school may refer a student to a youth court or a comparable restorative justice program in accordance with Section 53G-8-211.

(24) A local school board shall:

(a) make curriculum that the school district uses readily accessible and available for a parent to view;

(b) annually notify a parent of a student enrolled in the school district of how to access the information described in Subsection (24)(a); and

(c) include on the school district's website information about how to access the information described in Subsection (24)(a).

Section 98. Section **54-3-28** is amended to read:

54-3-28. Notice required of certain public utilities before preparing or amending a long-range plan or acquiring certain property.

(1) As used in this section:

(a) (i) "Affected entity" means each county, municipality, [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, special service district, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

(A) whose services or facilities are likely to require expansion or significant modification because of expected uses of land under a proposed long-range plan or under proposed amendments to a long-range plan; or

(B) that has filed with the specified public utility a copy of the general or long-range plan of the county, municipality, [~~local~~] special district, special service district, school district, interlocal cooperation entity, or specified public utility.

(ii) "Affected entity" does not include the specified public utility that is required under Subsection (2) to provide notice.

(b) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(2) (a) If a specified public utility prepares a long-range plan regarding the specified public utility's facilities proposed for the future in a county of the first or second class or

amends an already existing long-range plan, the specified public utility shall, before preparing a long-range plan or amendments to an existing long-range plan, provide written notice, as provided in this section, of the specified public utility's intent to prepare a long-range plan or to amend an existing long-range plan.

(b) Each notice under Subsection (2) shall:

(i) indicate that the specified public utility intends to prepare a long-range plan or to amend a long-range plan, as the case may be;

(ii) describe or provide a map of the geographic area that will be affected by the long-range plan or amendments to a long-range plan;

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed long-range plan or amendments to a long-range plan are expected to indicate that the proposed facilities will be located;

(B) each affected entity;

(C) the Utah Geospatial Resource Center created in Section 63A-16-505;

(D) each association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality described in Subsection (2)(b)(iii)(A) is a member; and

(E) the state planning coordinator appointed under Section 63J-4-401;

(iv) with respect to the notice to counties and municipalities described in Subsection (2)(b)(iii)(A) and affected entities, invite them to provide information for the specified public utility to consider in the process of preparing, adopting, and implementing the long-range plan or amendments to a long-range plan concerning:

(A) impacts that the use of land proposed in the proposed long-range plan or amendments to a long-range plan may have on the county, municipality, or affected entity; and

(B) uses of land that the county, municipality, or affected entity is planning or considering that may conflict with the proposed long-range plan or amendments to a long-range plan; and

(v) include the address of an Internet website, if the specified public utility has one, and the name and telephone number of an individual where more information can be obtained concerning the specified public utility's proposed long-range plan or amendments to a

long-range plan.

(3) (a) Except as provided in Subsection (3)(d), each specified public utility intending to acquire real property in a county of the first or second class for the purpose of expanding the specified public utility's infrastructure or other facilities used for providing the services that the specified public utility is authorized to provide shall provide written notice, as provided in this Subsection (3), of the specified public utility's intent to acquire the property if the intended use of the property is contrary to:

(i) the anticipated use of the property under the county or municipality's general plan; or

(ii) the property's current zoning designation.

(b) Each notice under Subsection (3)(a) shall:

(i) indicate that the specified public utility intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (3) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (3)(a) does not apply if the specified public utility previously provided notice under Subsection (2) identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a specified public utility is not required to comply with the notice requirement of Subsection (3)(a) because of application of Subsection (3)(d)(i), the specified public utility shall provide the notice specified in Subsection (3)(a) as soon as practicable after the specified public utility's acquisition of the real property.

Section 99. Section **54-14-103** is amended to read:

54-14-103. Definitions.

As used in this chapter:

(1) "Actual excess cost" means the difference in cost between:

(a) the standard cost of a facility; and

(b) the actual cost of the facility, including any necessary right-of-way, as determined in accordance with Section 54-14-203.

(2) "Board" means the Utility Facility Review Board.

(3) "Commencement of construction of a facility" includes the project design and the ordering of materials necessary to construct the facility.

(4) "Estimated excess cost" means any material difference in estimated cost between the costs of a facility, including any necessary right-of-way, if constructed in accordance with the requirements of a local government and the standard cost of the facility.

(5) (a) "Facility" means a transmission line, a substation, a gas pipeline, a tap, a measuring device, or a treatment device.

(b) "Facility" includes a high voltage power line route as defined in Section 54-18-102.

(6) (a) "Gas pipeline" means equipment, material, and structures used to transport gas to the public utility's customers, including:

(i) pipe;

(ii) a compressor;

(iii) a pressure regulator;

(iv) a support structure; and

(v) any other equipment or structure used to transport or facilitate transportation of gas through a pipe.

(b) "Gas pipeline" does not include a service line.

(7) "Local government":

(a) means a city or town as defined in Section 10-1-104 or a county; or

(b) may refer to one or more of the local governments in whose jurisdiction a facility is located if a facility is proposed to be located in more than one local government jurisdiction.

(8) "Pay" includes, in reference to a local government paying the actual excess cost of a facility, payment by:

(a) a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts;

(b) a special service district under Title 17D, Chapter 1, Special Service District Act;

or

(c) a private entity other than the public utility pursuant to a regulation or decision of the local government.

(9) (a) "Standard cost" means the estimated cost of a facility, including any necessary right-of-way, if constructed in accordance with:

(i) the public utility's normal practices; and

(ii) zoning, subdivision, and building code regulations of a local government, including siting, setback, screening, and landscaping requirements:

(A) imposed on similar land uses in the same zone; and

(B) that do not impair the ability of the public utility to provide service to its customers in a safe, reliable, adequate, and efficient manner.

(b) With respect to a transmission line, "standard cost" is the cost of any overhead line constructed in accordance with the public utility's normal practices.

(c) With respect to a facility of a gas corporation, "standard cost" is the cost of constructing the facility in accordance with the public utility's normal practices.

(10) (a) "Substation" means a separate space within which electric supply equipment is located for the purpose of switching, regulating, transforming, or otherwise modifying the characteristics of electricity, including:

(i) electrical equipment such as transformers, circuit breakers, voltage regulating equipment, buses, switches, capacitor banks, reactors, protection and control equipment, and other related equipment;

(ii) the site at which the equipment is located, any foundations, support structures, buildings, or driveways necessary to locate, operate, and maintain the equipment at the site; and

(iii) the structure intended to restrict access to the equipment to qualified persons.

(b) "Substation" does not include a distribution pole-mounted or pad-mounted transformer that is used for the final transformation of power to the voltage level utilized by the customer.

(11) (a) "Transmission line" means an electrical line, including structures, equipment, plant, or fixtures associated with the electrical line, operated at a nominal voltage of 34,000 volts or above.

(b) "Transmission line" includes, for purposes of Title 54, Chapter 18, Siting of High Voltage Power Line Act, an electrical line as described in Subsection (11)(a) operated at a nominal voltage of 230 kilovolts or more.

Section 100. Section **57-8-27** is amended to read:

57-8-27. Separate taxation.

(1) Each unit and its percentage of undivided interest in the common or community areas and facilities shall be considered to be a parcel and shall be subject to separate assessment and taxation by each assessing unit, [~~local~~] special district, and special service district for all types of taxes authorized by law, including ad valorem levies and special assessments. Neither the building or buildings, the property, nor any of the common areas and facilities may be considered a parcel.

(2) In the event any of the interests in real property made subject to this chapter by the declaration are leasehold interests, if the lease creating these interests is of record in the office of the county recorder, if the balance of the term remaining under the lease is at least 40 years at the time the leasehold interest is made subject to this chapter, if units are situated or are to be situated on or within the real property covered by the lease, and if the lease provides that the lessee shall pay all taxes and assessments imposed by governmental authority, then until 10 years prior to the date that the leasehold is to expire or until the lease is terminated, whichever first occurs, all taxes and assessments on the real property covered by the lease shall be levied against the owner of the lessee's interest. If the owner of the reversion under the lease has executed the declaration and condominium plat, until 10 years prior to the date that the leasehold is to expire, or until the lease is terminated, whichever first occurs, all taxes and assessments on the real property covered by the lease shall be separately levied against the unit owners having an interest in the lease, with each unit owner for taxation purposes being considered the owner of a parcel consisting of his undivided condominium interest in the fee of the real property affected by the lease.

(3) No forfeiture or sale of the improvements or the property as a whole for delinquent real estate taxes, special assessments, or charges shall divest or in anywise affect the title to an individual unit if the real estate taxes or duly levied share of the assessments and charges on the individual unit are currently paid.

(4) Any exemption from taxes that may exist on real property or the ownership of the

property may not be denied by virtue of the submission of the property to this chapter.

(5) Timeshare interests and timeshare estates, as defined in Section 57-19-2, may not be separately taxed but shall be valued, assessed, and taxed at the unit level. The value of timeshare interests and timeshare estates, for purposes of ad valorem taxation, shall be determined by valuing the real property interest associated with the timeshare interest or timeshare estate, exclusive of the value of any intangible property and rights associated with the acquisition, operation, ownership, and use of the timeshare interest or timeshare estate, including the fees and costs associated with the sale of timeshare interests and timeshare estates that exceed those fees and costs normally incurred in the sale of other similar properties, the fees and costs associated with the operation, ownership, and use of timeshare interests and timeshare estates, vacation exchange rights, vacation conveniences and services, club memberships, and any other intangible rights and benefits available to a timeshare unit owner. Nothing in this section shall be construed as requiring the assessment of any real property interest associated with a timeshare interest or timeshare estate at less than its fair market value. Notice of assessment, delinquency, sale, or any other purpose required by law is considered sufficient for all purposes if the notice is given to the management committee.

Section 101. Section **59-2-102** is amended to read:

59-2-102. Definitions.

As used in this chapter:

(1) (a) "Acquisition cost" means any cost required to put an item of tangible personal property into service.

(b) "Acquisition cost" includes:

(i) the purchase price of a new or used item;

(ii) the cost of freight, shipping, loading at origin, unloading at destination, crating, skidding, or any other applicable cost of shipping;

(iii) the cost of installation, engineering, rigging, erection, or assembly, including foundations, pilings, utility connections, or similar costs; and

(iv) sales and use taxes.

(2) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or

rotorcraft's use for agricultural and pest control purposes.

(3) "Air charter service" means an air carrier operation that requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

(4) "Air contract service" means an air carrier operation available only to customers that engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.

(5) "Aircraft" means the same as that term is defined in Section 72-10-102.

(6) (a) Except as provided in Subsection (6)(b), "airline" means an air carrier that:

(i) operates:

(A) on an interstate route; and

(B) on a scheduled basis; and

(ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.

(b) "Airline" does not include an:

(i) air charter service; or

(ii) air contract service.

(7) "Assessment roll" or "assessment book" means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.

(8) "Base parcel" means a parcel of property that was legally:

(a) subdivided into two or more lots, parcels, or other divisions of land; or

(b) (i) combined with one or more other parcels of property; and

(ii) subdivided into two or more lots, parcels, or other divisions of land.

(9) (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a multicounty assessing and collecting levy, as specified in Section 59-2-1602; and

(ii) the product of:

(A) eligible new growth, as defined in Section 59-2-924; and

(B) the multicounty assessing and collecting levy certified by the commission for the previous year.

(b) For purposes of this Subsection (9), "ad valorem property tax revenue" does not include property tax revenue received by a taxing entity from personal property that is:

(i) assessed by a county assessor in accordance with Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (9), the commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(10) "County-assessed commercial vehicle" means:

(a) any commercial vehicle, trailer, or semitrailer that is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise;

(b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and

(c) vehicles that are:

(i) especially constructed for towing or wrecking, and that are not otherwise used to transport goods, merchandise, or people for compensation;

(ii) used or licensed as taxicabs or limousines;

(iii) used as rental passenger cars, travel trailers, or motor homes;

(iv) used or licensed in this state for use as ambulances or hearses;

(v) especially designed and used for garbage and rubbish collection; or

(vi) used exclusively to transport students or their instructors to or from any private, public, or religious school or school activities.

(11) "Eligible judgment" means a final and unappealable judgment or order under Section 59-2-1330:

(a) that became a final and unappealable judgment or order no more than 14 months before the day on which the notice described in Section 59-2-919.1 is required to be provided; and

(b) for which a taxing entity's share of the final and unappealable judgment or order is greater than or equal to the lesser of:

(i) $5,000; or

(ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.

(12) (a) "Escaped property" means any property, whether personal, land, or any improvements to the property, that is subject to taxation and is:

(i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;

(ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or

(iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.

(b) "Escaped property" does not include property that is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology.

(13) (a) "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts.

(b) For purposes of taxation, "fair market value" shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

(14) "Geothermal fluid" means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.

(15) "Geothermal resource" means:

(a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

(b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.

(16) (a) "Goodwill" means:

(i) acquired goodwill that is reported as goodwill on the books and records that a taxpayer maintains for financial reporting purposes; or

(ii) the ability of a business to:

(A) generate income that exceeds a normal rate of return on assets and that results from a factor described in Subsection (16)(b); or

(B) obtain an economic or competitive advantage resulting from a factor described in Subsection (16)(b).

(b) The following factors apply to Subsection (16)(a)(ii):

(i) superior management skills;

(ii) reputation;

(iii) customer relationships;

(iv) patronage; or

(v) a factor similar to Subsections (16)(b)(i) through (iv).

(c) "Goodwill" does not include:

(i) the intangible property described in Subsection (19)(a) or (b);

(ii) locational attributes of real property, including:

(A) zoning;

(B) location;

(C) view;

(D) a geographic feature;

(E) an easement;

(F) a covenant;

(G) proximity to raw materials;

(H) the condition of surrounding property; or

(I) proximity to markets;

(iii) value attributable to the identification of an improvement to real property, including:

(A) reputation of the designer, builder, or architect of the improvement;

(B) a name given to, or associated with, the improvement; or

(C) the historic significance of an improvement; or

(iv) the enhancement or assemblage value specifically attributable to the interrelation of the existing tangible property in place working together as a unit.

(17) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, the [~~local~~] special district's board of trustees;

(c) for a school district, the local board of education;

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board established under Section 17D-1-301; or

(ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17D-1-301; or

(e) for a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, the public infrastructure district's board of trustees.

(18) (a) Except as provided in Subsection (18)(c), "improvement" means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:

(i) (A) attachment to land is essential to the operation or use of the item; and

(B) the manner of attachment to land suggests that the item will remain attached to the land in the same place over the useful life of the item; or

(ii) removal of the item would:

(A) cause substantial damage to the item; or

(B) require substantial alteration or repair of a structure to which the item is attached.

(b) "Improvement" includes:

(i) an accessory to an item described in Subsection (18)(a) if the accessory is:

(A) essential to the operation of the item described in Subsection (18)(a); and

(B) installed solely to serve the operation of the item described in Subsection (18)(a); and

(ii) an item described in Subsection (18)(a) that is temporarily detached from the land for repairs and remains located on the land.

(c) "Improvement" does not include:

(i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;

(ii) a moveable item that is attached to land for stability only or for an obvious temporary purpose;

(iii) (A) manufacturing equipment and machinery; or

(B) essential accessories to manufacturing equipment and machinery;

(iv) an item attached to the land in a manner that facilitates removal without substantial damage to the land or the item; or

(v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that transportable factory-built housing unit is considered to be personal property under Section 59-2-1503.

(19) "Intangible property" means:

(a) property that is capable of private ownership separate from tangible property, including:

(i) money;

(ii) credits;

(iii) bonds;

(iv) stocks;

(v) representative property;

(vi) franchises;

(vii) licenses;

(viii) trade names;

(ix) copyrights; and

(x) patents;

(b) a low-income housing tax credit;

(c) goodwill; or

(d) a renewable energy tax credit or incentive, including:

(i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;

(ii) a federal energy credit for qualified renewable electricity production facilities under Section 48, Internal Revenue Code;

(iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and

(iv) a tax credit under Subsection 59-7-614(5).

(20) "Livestock" means:

(a) a domestic animal;

(b) a fish;

(c) a fur-bearing animal;

(d) a honeybee; or

(e) poultry.

(21) "Low-income housing tax credit" means:

(a) a federal low-income housing tax credit under Section 42, Internal Revenue Code; or

(b) a low-income housing tax credit under Section 59-7-607 or Section 59-10-1010.

(22) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

(23) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.

(24) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.

(25) (a) "Mobile flight equipment" means tangible personal property that is owned or operated by an air charter service, air contract service, or airline and:

(i) is capable of flight or is attached to an aircraft that is capable of flight; or

(ii) is contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:

(A) during multiple flights;

(B) during a takeoff, flight, or landing; and

(C) as a service provided by an air charter service, air contract service, or airline.

(b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine that is rotated at regular intervals with an engine that is attached to the aircraft.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."

(26) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.

(27) "Part-year residential property" means property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.

(28) "Personal property" includes:

(a) every class of property as defined in Subsection (29) that is the subject of ownership and is not real estate or an improvement;

(b) any pipe laid in or affixed to land whether or not the ownership of the pipe is separate from the ownership of the underlying land, even if the pipe meets the definition of an improvement;

(c) bridges and ferries;

(d) livestock; and

(e) outdoor advertising structures as defined in Section 72-7-502.

(29) (a) "Property" means property that is subject to assessment and taxation according to its value.

(b) "Property" does not include intangible property as defined in this section.

(30) (a) "Public utility" means:

(i) the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use; and

(ii) the operating property of any entity or person defined under Section 54-2-1 except water corporations.

(b) "Public utility" does not include the operating property of a telecommunications service provider.

(31) (a) Subject to Subsection (31)(b), "qualifying exempt primary residential rental personal property" means household furnishings, furniture, and equipment that:

(i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

(ii) are owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(iii) after applying the residential exemption described in Section 59-2-103, are exempt from taxation under this chapter in accordance with Subsection 59-2-1115(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of this Subsection (31) and Subsection (34).

(32) "Real estate" or "real property" includes:

(a) the possession of, claim to, ownership of, or right to the possession of land;

(b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and

(c) improvements.

(33) (a) "Relationship with an owner of the property's land surface rights" means a relationship described in Subsection 267(b), Internal Revenue Code, except that the term 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code.

(b) For purposes of determining if a relationship described in Subsection 267(b), Internal Revenue Code, exists, the ownership of stock shall be determined using the ownership rules in Subsection 267(c), Internal Revenue Code.

(34) (a) "Residential property," for purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence.

(b) "Residential property" includes:

(i) except as provided in Subsection (34)(b)(ii), includes household furnishings, furniture, and equipment if the household furnishings, furniture, and equipment are:

(A) used exclusively within a dwelling unit that is the primary residence of a tenant; and

(B) owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(ii) if the county assessor determines that the property will be used for residential purposes as a primary residence:

(A) property under construction; or

(B) unoccupied property.

(c) "Residential property" does not include property used for transient residential use.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of Subsection (31) and this Subsection (34).

(35) "Split estate mineral rights owner" means a person that:

(a) has a legal right to extract a mineral from property;

(b) does not hold more than a 25% interest in:

(i) the land surface rights of the property where the wellhead is located; or

(ii) an entity with an ownership interest in the land surface rights of the property where the wellhead is located;

(c) is not an entity in which the owner of the land surface rights of the property where the wellhead is located holds more than a 25% interest; and

(d) does not have a relationship with an owner of the land surface rights of the property where the wellhead is located.

(36) (a) "State-assessed commercial vehicle" means:

(i) any commercial vehicle, trailer, or semitrailer that operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or

(ii) any commercial vehicle, trailer, or semitrailer that operates interstate and transports the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(b) "State-assessed commercial vehicle" does not include vehicles used for hire that are specified in Subsection (10)(c) as county-assessed commercial vehicles.

(37) "Subdivided lot" means a lot, parcel, or other division of land, that is a division of a base parcel.

(38) "Tax area" means a geographic area created by the overlapping boundaries of one or more taxing entities.

(39) "Taxable value" means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.

(40) "Taxing entity" means any county, city, town, school district, special taxing district, [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, or other political subdivision of the state with the authority to levy a tax on property.

(41) (a) "Tax roll" means a permanent record of the taxes charged on property, as extended on the assessment roll, and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll.

(b) "Tax roll" includes tax books, tax lists, and other similar materials.

(42) "Telecommunications service provider" means the same as that term is defined in Section 59-12-102.

Section 102. Section **59-2-511** is amended to read:

59-2-511. Acquisition of land by governmental entity -- Requirements -- Rollback tax -- One-time in lieu fee payment -- Passage of title.

(1) For purposes of this section, "governmental entity" means:

(a) the United States;

(b) the state;

(c) a political subdivision of the state, including:

(i) a county;

(ii) a city;

(iii) a town;

(iv) a school district;

(v) a [~~local~~] special district; or

(vi) a special service district; or

(d) an entity created by the state or the United States, including:

(i) an agency;

(ii) a board;

(iii) a bureau;

(iv) a commission;

(v) a committee;

(vi) a department;

(vii) a division;

(viii) an institution;

(ix) an instrumentality; or

(x) an office.

(2) (a) Except as provided in Subsections (3) and (4), land acquired by a governmental entity is subject to the rollback tax imposed by this part if:

(i) prior to the governmental entity acquiring the land, the land is assessed under this part; and

(ii) after the governmental entity acquires the land, the land does not meet the requirements of Section 59-2-503 for assessment under this part.

(b) A person dedicating a public right-of-way to a governmental entity shall pay the rollback tax imposed by this part if:

(i) a portion of the public right-of-way is located within a subdivision as defined in Section 10-9a-103; or

(ii) in exchange for the dedication, the person dedicating the public right-of-way receives:

(A) money; or

(B) other consideration.

(3) (a) Except as provided in Subsection (4), land acquired by a governmental entity is not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee payment as provided in Subsection (3)(b), if:

(i) the governmental entity acquires the land by eminent domain;

(ii) (A) the land is under the threat or imminence of eminent domain proceedings; and

(B) the governmental entity provides written notice of the proceedings to the owner; or

(iii) the land is donated to the governmental entity.

(b) (i) If a governmental entity acquires land under Subsection (3)(a)(iii), the governmental entity shall make a one-time in lieu fee payment:

(A) to the county treasurer of the county in which the land is located; and

(B) in an amount equal to the amount of rollback tax calculated under Section

59-2-506.

(ii) If a governmental entity acquires land under Subsection (3)(a)(i) or (3)(a)(ii), the governmental entity shall make a one-time in lieu fee payment:

(A) to the county treasurer of the county in which the land is located; and

(B) (I) if the land remaining after the acquisition by the governmental entity meets the requirements of Section 59-2-503, in an amount equal to the rollback tax under Section 59-2-506 on the land acquired by the governmental entity; or

(II) if the land remaining after the acquisition by the governmental entity is less than five acres, in an amount equal to the rollback tax under Section 59-2-506 on the land acquired by the governmental entity and the land remaining after the acquisition by the governmental entity.

(iii) For purposes of Subsection (3)(b)(ii), "land remaining after the acquisition by the governmental entity" includes other eligible acreage that is used in conjunction with the land remaining after the acquisition by the governmental entity.

(c) A county receiving an in lieu fee payment under Subsection (3)(b) shall distribute the revenues generated by the payment:

(i) to the taxing entities in which the land is located; and

(ii) in the same proportion as the revenue from real property taxes is distributed.

(4) Except as provided in Section 59-2-506.5, if land acquired by a governmental entity is made subject to a conservation easement in accordance with Section 59-2-506.5:

(a) the land is not subject to the rollback tax imposed by this part; and

(b) the governmental entity acquiring the land is not required to make an in lieu fee payment under Subsection (3)(b).

(5) If a governmental entity acquires land subject to assessment under this part, title to the land may not pass to the governmental entity until the following are paid to the county treasurer:

(a) any tax due under this part;

(b) any one-time in lieu fee payment due under this part; and

(c) any interest due under this part.

Section 103. Section **59-2-919** is amended to read:

59-2-919. Notice and public hearing requirements for certain tax increases --

Exceptions.

(1) As used in this section:

(a) "Additional ad valorem tax revenue" means ad valorem property tax revenue generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.

(b) "Ad valorem tax revenue" means ad valorem property tax revenue not including revenue from:

(i) eligible new growth as defined in Section 59-2-924; or

(ii) personal property that is:

(A) assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) semiconductor manufacturing equipment.

(c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year that begins on January 1 and ends on December 31.

(d) "County executive calendar year taxing entity" means a calendar year taxing entity that operates under the county executive-council form of government described in Section 17-52a-203.

(e) "Current calendar year" means the calendar year immediately preceding the calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate.

(f) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.

(g) "Last year's property tax budgeted revenue" does not include revenue received by a taxing entity from a debt service levy voted on by the public.

(2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax rate unless the taxing entity meets:

(a) the requirements of this section that apply to the taxing entity; and

(b) all other requirements as may be required by law.

(3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax rate if the calendar year taxing entity:

(i) 14 or more days before the date of the regular general election or municipal general election held in the current calendar year, states at a public meeting:

(A) that the calendar year taxing entity intends to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate;

(B) the dollar amount of and purpose for additional ad valorem tax revenue that would be generated by the proposed increase in the certified tax rate; and

(C) the approximate percentage increase in ad valorem tax revenue for the taxing entity based on the proposed increase described in Subsection (3)(a)(i)(B);

(ii) provides notice for the public meeting described in Subsection (3)(a)(i) in accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a separate item on the meeting agenda that notifies the public that the calendar year taxing entity intends to make the statement described in Subsection (3)(a)(i);

(iii) meets the advertisement requirements of Subsections (6) and (7) before the calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

(iv) provides notice by mail:

(A) seven or more days before the regular general election or municipal general election held in the current calendar year; and

(B) as provided in Subsection (3)(c); and

(v) conducts a public hearing that is held:

(A) in accordance with Subsections (8) and (9); and

(B) in conjunction with the public hearing required by Section 17-36-13 or 17B-1-610.

(b) (i) For a county executive calendar year taxing entity, the statement described in Subsection (3)(a)(i) shall be made by the:

(A) county council;

(B) county executive; or

(C) both the county council and county executive.

(ii) If the county council makes the statement described in Subsection (3)(a)(i) or the county council states a dollar amount of additional ad valorem tax revenue that is greater than the amount of additional ad valorem tax revenue previously stated by the county executive in accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:

(A) make the statement described in Subsection (3)(a)(i) 14 or more days before the county executive calendar year taxing entity conducts the public hearing under Subsection (3)(a)(v); and

(B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the county executive calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v).

(c) The notice described in Subsection (3)(a)(iv):

(i) shall be mailed to each owner of property:

(A) within the calendar year taxing entity; and

(B) listed on the assessment roll;

(ii) shall be printed on a separate form that:

(A) is developed by the commission;

(B) states at the top of the form, in bold upper-case type no smaller than 18 point "NOTICE OF PROPOSED TAX INCREASE"; and

(C) may be mailed with the notice required by Section 59-2-1317;

(iii) shall contain for each property described in Subsection (3)(c)(i):

(A) the value of the property for the current calendar year;

(B) the tax on the property for the current calendar year; and

(C) subject to Subsection (3)(d), for the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate, the estimated tax on the property;

(iv) shall contain the following statement:

"[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar year]. This notice contains estimates of the tax on your property and the proposed tax increase on your property as a result of this tax increase. These estimates are calculated on the basis of [insert previous applicable calendar year] data. The actual tax on your property and proposed tax increase on your property may vary from this estimate.";

(v) shall state the date, time, and place of the public hearing described in Subsection (3)(a)(v); and

(vi) may contain other property tax information approved by the commission.

(d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall calculate the estimated tax on property on the basis of:

(i) data for the current calendar year; and

(ii) the amount of additional ad valorem tax revenue stated in accordance with this

section.

(4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

(a) provides notice by meeting the advertisement requirements of Subsections (6) and (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year taxing entity's annual budget is adopted; and

(b) conducts a public hearing in accordance with Subsections (8) and (9) before the fiscal year taxing entity's annual budget is adopted.

(5) (a) A taxing entity is not required to meet the notice or public hearing requirements of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with the requirements of this section.

(b) A taxing entity is not required to meet the notice requirements of Subsection (3) or (4) if:

(i) Section 53F-8-301 allows the taxing entity to levy a tax rate that exceeds that certified tax rate without having to comply with the notice provisions of this section; or

(ii) the taxing entity:

(A) budgeted less than $20,000 in ad valorem tax revenue for the previous fiscal year; and

(B) sets a budget during the current fiscal year of less than $20,000 of ad valorem tax revenue.

(6) (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this section shall be published:

(i) subject to Section 45-1-101, in a newspaper or combination of newspapers of general circulation in the taxing entity;

(ii) electronically in accordance with Section 45-1-101; and

(iii) on the Utah Public Notice Website created in Section 63A-16-601.

(b) The advertisement described in Subsection (6)(a)(i) shall:

(i) be no less than 1/4 page in size;

(ii) use type no smaller than 18 point; and

(iii) be surrounded by a 1/4-inch border.

(c) The advertisement described in Subsection (6)(a)(i) may not be placed in that

portion of the newspaper where legal notices and classified advertisements appear.

(d) It is the intent of the Legislature that:

(i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a newspaper that is published at least one day per week; and

(ii) the newspaper or combination of newspapers selected:

(A) be of general interest and readership in the taxing entity; and

(B) not be of limited subject matter.

(e) (i) The advertisement described in Subsection (6)(a)(i) shall:

(A) except as provided in Subsection (6)(f), be run once each week for the two weeks before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(ii) The advertisement described in Subsection (6)(a)(ii) shall:

(A) be published two weeks before a taxing entity conducts a public hearing described in Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(f) If a fiscal year taxing entity's public hearing information is published by the county auditor in accordance with Section 59-2-919.2, the fiscal year taxing entity is not subject to the requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run the advertisement once during the week before the fiscal year taxing entity conducts a public hearing at which the taxing entity's annual budget is discussed.

(g) For purposes of Subsection (3)(a)(iii) or (4)(a), the form and content of an advertisement shall be substantially as follows:

"NOTICE OF PROPOSED TAX INCREASE

(NAME OF TAXING ENTITY)

The (name of the taxing entity) is proposing to increase its property tax revenue.

- The (name of the taxing entity) tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence would increase from $_____ to $_____, which is $_____ per year.
- The (name of the taxing entity) tax on a (insert the value of a business having the same value as the average value of a residence in the taxing entity) business would increase from $_____ to $_____, which is $_____ per year.
- If the proposed budget is approved, (name of the taxing entity) would increase its property tax budgeted revenue by ___% above last year's property tax budgeted revenue excluding eligible new growth.

All concerned citizens are invited to a public hearing on the tax increase.

PUBLIC HEARING

Date/Time:~~{}~~ (date) (time)

Location:~~{}~~ (name of meeting place and address of meeting place)

To obtain more information regarding the tax increase, citizens may contact the (name of the taxing entity) at (phone number of taxing entity)."

(7) The commission:

(a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by two or more taxing entities; and

(b) subject to Section 45-1-101, may authorize:

(i) the use of a weekly newspaper:

(A) in a county having both daily and weekly newspapers if the weekly newspaper would provide equal or greater notice to the taxpayer; and

(B) if the county petitions the commission for the use of the weekly newspaper; or

(ii) the use by a taxing entity of a commission approved direct notice to each taxpayer if:

(A) the cost of the advertisement would cause undue hardship;

(B) the direct notice is different and separate from that provided for in Section 59-2-919.1; and

(C) the taxing entity petitions the commission for the use of a commission approved

direct notice.

(8) (a) (i) (A) A fiscal year taxing entity shall, on or before March 1, notify the county legislative body in which the fiscal year taxing entity is located of the date, time, and place of the first public hearing at which the fiscal year taxing entity's annual budget will be discussed.

(B) A county that receives notice from a fiscal year taxing entity under Subsection (8)(a)(i)(A) shall include on the notice required by Section 59-2-919.1 the date, time, and place of the public hearing described in Subsection (8)(a)(i)(A).

(ii) A calendar year taxing entity shall, on or before October 1 of the current calendar year, notify the county legislative body in which the calendar year taxing entity is located of the date, time, and place of the first public hearing at which the calendar year taxing entity's annual budget will be discussed.

(b) (i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be:

(A) open to the public; and

(B) held at a meeting of the taxing entity with no items on the agenda other than discussion and action on the taxing entity's intent to levy a tax rate that exceeds the taxing entity's certified tax rate, the taxing entity's budget, a [~~local~~] special district's or special service district's fee implementation or increase, or a combination of these items.

(ii) The governing body of a taxing entity conducting a public hearing described in Subsection (3)(a)(v) or (4)(b) shall provide an interested party desiring to be heard an opportunity to present oral testimony:

(A) within reasonable time limits; and

(B) without unreasonable restriction on the number of individuals allowed to make public comment.

(c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing of another overlapping taxing entity in the same county.

(ii) The taxing entities in which the power to set tax levies is vested in the same governing board or authority may consolidate the public hearings described in Subsection (3)(a)(v) or (4)(b) into one public hearing.

(d) A county legislative body shall resolve any conflict in public hearing dates and times after consultation with each affected taxing entity.

(e) (i) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or (4)(b) beginning at or after 6 p.m.

(ii) If a taxing entity holds a public meeting for the purpose of addressing general business of the taxing entity on the same date as a public hearing described in Subsection (3)(a)(v) or (4)(b), the public meeting addressing general business items shall conclude before the beginning of the public hearing described in Subsection (3)(a)(v) or (4)(b).

(f) (i) Except as provided in Subsection (8)(f)(ii), a taxing entity may not hold the public hearing described in Subsection (3)(a)(v) or (4)(b) on the same date as another public hearing of the taxing entity.

(ii) A taxing entity may hold the following hearings on the same date as a public hearing described in Subsection (3)(a)(v) or (4)(b):

(A) a budget hearing;

(B) if the taxing entity is a [~~local~~] special district or a special service district, a fee hearing described in Section 17B-1-643;

(C) if the taxing entity is a town, an enterprise fund hearing described in Section 10-5-107.5; or

(D) if the taxing entity is a city, an enterprise fund hearing described in Section 10-6-135.5.

(9) (a) If a taxing entity does not make a final decision on budgeting additional ad valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing entity shall:

(i) announce at that public hearing the scheduled time and place of the next public meeting at which the taxing entity will consider budgeting the additional ad valorem tax revenue; and

(ii) if the taxing entity is a fiscal year taxing entity, hold the public meeting described in Subsection (9)(a)(i) before September 1.

(b) A calendar year taxing entity may not adopt a final budget that budgets an amount of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem tax revenue stated at a public meeting under Subsection (3)(a)(i).

(c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed

annual budget.

Section 104. Section **59-2-924.2** is amended to read:

59-2-924.2. Adjustments to the calculation of a taxing entity's certified tax rate.

(1) For purposes of this section, "certified tax rate" means a certified tax rate calculated in accordance with Section 59-2-924.

(2) Beginning January 1, 1997, if a taxing entity receives increased revenues from uniform fees on tangible personal property under Section 59-2-405, 59-2-405.1, 59-2-405.2, 59-2-405.3, or 72-10-110.5 as a result of any county imposing a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax rate to offset the increased revenues.

(3) (a) Beginning July 1, 1997, if a county has imposed a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the county's certified tax rate shall be:

(i) decreased on a one-time basis by the amount of the estimated sales and use tax revenue to be distributed to the county under Subsection 59-12-1102(3); and

(ii) increased by the amount necessary to offset the county's reduction in revenue from uniform fees on tangible personal property under Section 59-2-405, 59-2-405.1, 59-2-405.2, 59-2-405.3, or 72-10-110.5 as a result of the decrease in the certified tax rate under Subsection (3)(a)(i).

(b) The commission shall determine estimates of sales and use tax distributions for purposes of Subsection (3)(a).

(4) Beginning January 1, 1998, if a municipality has imposed an additional resort communities sales and use tax under Section 59-12-402, the municipality's certified tax rate shall be decreased on a one-time basis by the amount necessary to offset the first 12 months of estimated revenue from the additional resort communities sales and use tax imposed under Section 59-12-402.

(5) (a) This Subsection (5) applies to each county that:

(i) establishes a countywide special service district under Title 17D, Chapter 1, Special Service District Act, to provide jail service, as provided in Subsection 17D-1-201(10); and

(ii) levies a property tax on behalf of the special service district under Section 17D-1-105.

(b) (i) The certified tax rate of each county to which this Subsection (5) applies shall be

decreased by the amount necessary to reduce county revenues by the same amount of revenues that will be generated by the property tax imposed on behalf of the special service district.

(ii) Each decrease under Subsection (5)(b)(i) shall occur contemporaneously with the levy on behalf of the special service district under Section 17D-1-105.

(6) (a) As used in this Subsection (6):

(i) "Annexing county" means a county whose unincorporated area is included within a public safety district by annexation.

(ii) "Annexing municipality" means a municipality whose area is included within a public safety district by annexation.

(iii) "Equalized public safety protection tax rate" means the tax rate that results from:

(A) calculating, for each participating county and each participating municipality, the property tax revenue necessary:

(I) in the case of a fire district, to cover all of the costs associated with providing fire protection, paramedic, and emergency services:

(Aa) for a participating county, in the unincorporated area of the county; and

(Bb) for a participating municipality, in the municipality; or

(II) in the case of a police district, to cover all the costs:

(Aa) associated with providing law enforcement service:

(Ii) for a participating county, in the unincorporated area of the county; and

(IIii) for a participating municipality, in the municipality; and

(Bb) that the police district board designates as the costs to be funded by a property tax; and

(B) adding all the amounts calculated under Subsection (6)(a)(iii)(A) for all participating counties and all participating municipalities and then dividing that sum by the aggregate taxable value of the property, as adjusted in accordance with Section 59-2-913:

(I) for participating counties, in the unincorporated area of all participating counties; and

(II) for participating municipalities, in all the participating municipalities.

(iv) "Fire district" means a service area under Title 17B, Chapter 2a, Part 9, Service Area Act:

(A) created to provide fire protection, paramedic, and emergency services; and

(B) in the creation of which an election was not required under Subsection 17B-1-214(3)(d).

(v) "Participating county" means a county whose unincorporated area is included within a public safety district at the time of the creation of the public safety district.

(vi) "Participating municipality" means a municipality whose area is included within a public safety district at the time of the creation of the public safety district.

(vii) "Police district" means a service area under Title 17B, Chapter 2a, Part 9, Service Area Act, within a county of the first class:

(A) created to provide law enforcement service; and

(B) in the creation of which an election was not required under Subsection 17B-1-214(3)(d).

(viii) "Public safety district" means a fire district or a police district.

(ix) "Public safety service" means:

(A) in the case of a public safety district that is a fire district, fire protection, paramedic, and emergency services; and

(B) in the case of a public safety district that is a police district, law enforcement service.

(b) In the first year following creation of a public safety district, the certified tax rate of each participating county and each participating municipality shall be decreased by the amount of the equalized public safety tax rate.

(c) In the first budget year following annexation to a public safety district, the certified tax rate of each annexing county and each annexing municipality shall be decreased by an amount equal to the amount of revenue budgeted by the annexing county or annexing municipality:

(i) for public safety service; and

(ii) in:

(A) for a taxing entity operating under a January 1 through December 31 fiscal year, the prior calendar year; or

(B) for a taxing entity operating under a July 1 through June 30 fiscal year, the prior fiscal year.

(d) Each tax levied under this section by a public safety district shall be considered to

be levied by:

(i) each participating county and each annexing county for purposes of the county's tax limitation under Section 59-2-908; and

(ii) each participating municipality and each annexing municipality for purposes of the municipality's tax limitation under Section 10-5-112, for a town, or Section 10-6-133, for a city.

(e) The calculation of a public safety district's certified tax rate for the year of annexation shall be adjusted to include an amount of revenue equal to one half of the amount of revenue budgeted by the annexing entity for public safety service in the annexing entity's prior fiscal year if:

(i) the public safety district operates on a January 1 through December 31 fiscal year;

(ii) the public safety district approves an annexation of an entity operating on a July 1 through June 30 fiscal year; and

(iii) the annexation described in Subsection (6)(e)(ii) takes effect on July 1.

(7) (a) The base taxable value as defined in Section 17C-1-102 shall be reduced for any year to the extent necessary to provide a community reinvestment agency established under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act, with approximately the same amount of money the agency would have received without a reduction in the county's certified tax rate, calculated in accordance with Section 59-2-924, if:

(i) in that year there is a decrease in the certified tax rate under Subsection (2) or (3)(a);

(ii) the amount of the decrease is more than 20% of the county's certified tax rate of the previous year; and

(iii) the decrease results in a reduction of the amount to be paid to the agency under Section 17C-1-403 or 17C-1-404.

(b) The base taxable value as defined in Section 17C-1-102 shall be increased in any year to the extent necessary to provide a community reinvestment agency with approximately the same amount of money as the agency would have received without an increase in the certified tax rate that year if:

(i) in that year the base taxable value as defined in Section 17C-1-102 is reduced due to a decrease in the certified tax rate under Subsection (2) or (3)(a); and

(ii) the certified tax rate of a city, school district, [~~local~~] special district, or special

service district increases independent of the adjustment to the taxable value of the base year.

(c) Notwithstanding a decrease in the certified tax rate under Subsection (2) or (3)(a), the amount of money allocated and, when collected, paid each year to a community reinvestment agency established under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act, for the payment of bonds or other contract indebtedness, but not for administrative costs, may not be less than that amount would have been without a decrease in the certified tax rate under Subsection (2) or (3)(a).

(8) (a) For the calendar year beginning on January 1, 2014, the calculation of a county assessing and collecting levy shall be adjusted by the amount necessary to offset:

(i) any change in the certified tax rate that may result from amendments to Part 16, Multicounty Assessing and Collecting Levy, in Laws of Utah 2014, Chapter 270, Section 3; and

(ii) the difference in the amount of revenue a taxing entity receives from or contributes to the Property Tax Valuation Fund, created in Section 59-2-1602, that may result from amendments to Part 16, Multicounty Assessing and Collecting Levy, in Laws of Utah 2014, Chapter 270, Section 3.

(b) A taxing entity is not required to comply with the notice and public hearing requirements in Section 59-2-919 for an adjustment to the county assessing and collecting levy described in Subsection (8)(a).

Section 105. Section **59-2-1101** is amended to read:

59-2-1101. Definitions -- Exemption of certain property -- Proportional payments for certain property -- Exception -- County legislative body authority to adopt rules or ordinances.

(1) As used in this section:

(a) "Charitable purposes" means:

(i) for property used as a nonprofit hospital or a nursing home, the standards outlined in Howell v. County Board of Cache County ex rel. IHC Hospitals, Inc., 881 P.2d 880 (Utah 1994); and

(ii) for property other than property described in Subsection (1)(a)(i), providing a gift to the community.

(b) (i) "Educational purposes" means purposes carried on by an educational

organization that normally:

(A) maintains a regular faculty and curriculum; and

(B) has a regularly enrolled body of pupils and students.

(ii) "Educational purposes" includes:

(A) the physical or mental teaching, training, or conditioning of competitive athletes by a national governing body of sport recognized by the United States Olympic Committee that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and

(B) an activity in support of or incidental to the teaching, training, or conditioning described in this Subsection (1)(b)(ii).

(c) "Exclusive use exemption" means a property tax exemption under Subsection (3)(a)(iv), for property owned by a nonprofit entity used exclusively for one or more of the following purposes:

(i) religious purposes;

(ii) charitable purposes; or

(iii) educational purposes.

(d) (i) "Farm machinery and equipment" means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes.

(ii) "Farm machinery and equipment" does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

(e) "Gift to the community" means:

(i) the lessening of a government burden; or

(ii) (A) the provision of a significant service to others without immediate expectation of material reward;

(B) the use of the property is supported to a material degree by donations and gifts including volunteer service;

(C) the recipients of the charitable activities provided on the property are not required to pay for the assistance received, in whole or in part, except that if in part, to a material

degree;

(D) the beneficiaries of the charitable activities provided on the property are unrestricted or, if restricted, the restriction bears a reasonable relationship to the charitable objectives of the nonprofit entity that owns the property; and

(E) any commercial activities provided on the property are subordinate or incidental to charitable activities provided on the property.

(f) "Government exemption" means a property tax exemption provided under Subsection (3)(a)(i), (ii), or (iii).

(g) (i) "Nonprofit entity" means an entity:

(A) that is organized on a nonprofit basis, that dedicates the entity's property to the entity's nonprofit purpose, and that makes no dividend or other form of financial benefit available to a private interest;

(B) for which, upon dissolution, the entity's assets are distributable only for exempt purposes under state law or to the government for a public purpose; and

(C) for which none of the net earnings or donations made to the entity inure to the benefit of private shareholders or other individuals, as the private inurement standard has been interpreted under Section 501(c)(3), Internal Revenue Code.

(ii) "Nonprofit entity" includes an entity:

(A) if the entity is treated as a disregarded entity for federal income tax purposes and wholly owned by, and controlled under the direction of, a nonprofit entity; and

(B) for which none of the net earnings and profits of the entity inure to the benefit of any person other than a nonprofit entity.

(h) "Tax relief" means an exemption, deferral, or abatement that is authorized by this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

(2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

(b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional tax based upon the length of time that the property was not owned by the claimant if:

(i) the claimant is a federal, state, or political subdivision entity described in Subsection (3)(a)(i), (ii), or (iii); or

(ii) pursuant to Subsection (3)(a)(iv):

(A) the claimant is a nonprofit entity; and

(B) the property is used exclusively for religious, charitable, or educational purposes.

(c) Subsection (2)(a) does not apply to an exemption described in Part 19, Armed Forces Exemptions .

(3) (a) The following property is exempt from taxation:

(i) property exempt under the laws of the United States;

(ii) property of:

(A) the state;

(B) school districts; and

(C) public libraries;

(iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:

(A) counties;

(B) cities;

(C) towns;

(D) [~~local~~] special districts;

(E) special service districts; and

(F) all other political subdivisions of the state;

(iv) except as provided in Subsection (6) or (7), property owned by a nonprofit entity used exclusively for one or more of the following purposes:

(A) religious purposes;

(B) charitable purposes; or

(C) educational purposes;

(v) places of burial not held or used for private or corporate benefit;

(vi) farm machinery and equipment;

(vii) a high tunnel, as defined in Section 10-9a-525;

(viii) intangible property; and

(ix) the ownership interest of an out-of-state public agency, as defined in Section 11-13-103:

(A) if that ownership interest is in property providing additional project capacity, as defined in Section 11-13-103; and

(B) on which a fee in lieu of ad valorem property tax is payable under Section

11-13-302.

(b) For purposes of a property tax exemption for property of school districts under Subsection (3)(a)(ii)(B), a charter school under Title 53G, Chapter 5, Charter Schools, is considered to be a school district.

(4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or a government exemption ceases to qualify for the exemption because of a change in the ownership of the property:

(a) the new owner of the property shall pay a proportional tax based upon the period of time:

(i) beginning on the day that the new owner acquired the property; and

(ii) ending on the last day of the calendar year during which the new owner acquired the property; and

(b) the new owner of the property and the person from whom the new owner acquires the property shall notify the county assessor, in writing, of the change in ownership of the property within 30 days from the day that the new owner acquires the property.

(5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection (4)(a):

(a) is subject to any exclusive use exemption or government exemption that the property is entitled to under the new ownership of the property; and

(b) applies only to property that is acquired after December 31, 2005.

(6) (a) A property may not receive an exemption under Subsection (3)(a)(iv) if:

(i) the nonprofit entity that owns the property participates in or intervenes in any political campaign on behalf of or in opposition to any candidate for public office, including the publishing or distribution of statements; or

(ii) a substantial part of the activities of the nonprofit entity that owns the property consists of carrying on propaganda or otherwise attempting to influence legislation, except as provided under Subsection 501(h), Internal Revenue Code.

(b) Whether a nonprofit entity is engaged in an activity described in Subsection (6)(a) shall be determined using the standards described in Section 501, Internal Revenue Code.

(7) A property may not receive an exemption under Subsection (3)(a)(iv) if:

(a) the property is used for a purpose that is not religious, charitable, or educational;

and

(b) the use for a purpose that is not religious, charitable, or educational is more than de minimis.

(8) A county legislative body may adopt rules or ordinances to:

(a) effectuate the exemptions, deferrals, abatements, or other relief from taxation provided in this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions; and

(b) designate one or more persons to perform the functions given the county under this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

(9) If a person is dissatisfied with a tax relief decision made under designated decision-making authority as described in Subsection (8)(b), that person may appeal the decision to the commission under Section 59-2-1006.

Section 106. Section **59-2-1317** is amended to read:

59-2-1317. Tax notice -- Contents of notice -- Procedures and requirements for providing notice.

(1) As used in this section, "political subdivision lien" means the same as that term is defined in Section 11-60-102.

(2) Subject to the other provisions of this section, the county treasurer shall:

(a) collect the taxes and tax notice charges; and

(b) provide a notice to each taxpayer that contains the following:

(i) the kind and value of property assessed to the taxpayer;

(ii) the street address of the property, if available to the county;

(iii) that the property may be subject to a detailed review in the next year under Section 59-2-303.1;

(iv) the amount of taxes levied;

(v) a separate statement of the taxes levied only on a certain kind or class of property for a special purpose;

(vi) property tax information pertaining to taxpayer relief, options for payment of taxes, and collection procedures;

(vii) any tax notice charges applicable to the property, including:

(A) if applicable, a political subdivision lien for road damage that a railroad company

causes, as described in Section 10-7-30;

(B) if applicable, a political subdivision lien for municipal water distribution, as described in Section 10-8-17, or a political subdivision lien for an increase in supply from a municipal water distribution, as described in Section 10-8-19;

(C) if applicable, a political subdivision lien for unpaid abatement fees as described in Section 10-11-4;

(D) if applicable, a political subdivision lien for the unpaid portion of an assessment assessed in accordance with Title 11, Chapter 42, Assessment Area Act, or Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act, including unpaid costs, charges, and interest as of the date the local entity certifies the unpaid amount to the county treasurer;

(E) if applicable, for a [~~local~~] special district in accordance with Section 17B-1-902, a political subdivision lien for an unpaid fee, administrative cost, or interest;

(F) if applicable, a political subdivision lien for an unpaid irrigation district use charge as described in Section 17B-2a-506;

(G) if applicable, a political subdivision lien for a contract assessment under a water contract, as described in Section 17B-2a-1007;

(H) if applicable, a property tax penalty that a public infrastructure district imposes, as described in Section 17D-4-304; and

(I) if applicable, an annual payment to the Military Installation Development Authority or an entity designated by the authority in accordance with Section 63H-1-501;

(viii) if a county's tax notice includes an assessment area charge, a statement that, due to potentially ongoing assessment area charges, costs, penalties, and interest, payment of a tax notice charge may not:

(A) pay off the full amount the property owner owes to the tax notice entity; or

(B) cause a release of the lien underlying the tax notice charge;

(ix) the date the taxes and tax notice charges are due;

(x) the street address at which the taxes and tax notice charges may be paid;

(xi) the date on which the taxes and tax notice charges are delinquent;

(xii) the penalty imposed on delinquent taxes and tax notice charges;

(xiii) a statement that explains the taxpayer's right to direct allocation of a partial payment in accordance with Subsection (9);

(xiv) other information specifically authorized to be included on the notice under this chapter; and

(xv) other property tax information approved by the commission.

(3) (a) Unless expressly allowed under this section or another statutory provision, the treasurer may not add an amount to be collected to the property tax notice.

(b) If the county treasurer adds an amount to be collected to the property tax notice under this section or another statutory provision that expressly authorizes the item's inclusion on the property tax notice:

(i) the amount constitutes a tax notice charge; and

(ii) (A) the tax notice charge has the same priority as property tax; and

(B) a delinquency of the tax notice charge triggers a tax sale, in accordance with Section 59-2-1343.

(4) For any property for which property taxes or tax notice charges are delinquent, the notice described in Subsection (2) shall state, "Prior taxes or tax notice charges are delinquent on this parcel."

(5) Except as provided in Subsection (6), the county treasurer shall:

(a) mail the notice required by this section, postage prepaid; or

(b) leave the notice required by this section at the taxpayer's residence or usual place of business, if known.

(6) (a) Subject to the other provisions of this Subsection (6), a county treasurer may, at the county treasurer's discretion, provide the notice required by this section by electronic mail if a taxpayer makes an election, according to procedures determined by the county treasurer, to receive the notice by electronic mail.

(b) A taxpayer may revoke an election to receive the notice required by this section by electronic mail if the taxpayer provides written notice to the treasurer on or before October 1.

(c) A revocation of an election under this section does not relieve a taxpayer of the duty to pay a tax or tax notice charge due under this chapter on or before the due date for paying the tax or tax notice charge.

(d) A county treasurer shall provide the notice required by this section using a method described in Subsection (5), until a taxpayer makes a new election in accordance with this Subsection (6), if:

(i) the taxpayer revokes an election in accordance with Subsection (6)(b) to receive the notice required by this section by electronic mail; or

(ii) the county treasurer finds that the taxpayer's electronic mail address is invalid.

(e) A person is considered to be a taxpayer for purposes of this Subsection (6) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

(7) (a) The county treasurer shall provide the notice required by this section to a taxpayer on or before November 1.

(b) The county treasurer shall keep on file in the county treasurer's office the information set forth in the notice.

(c) The county treasurer is not required to mail a tax receipt acknowledging payment.

(8) This section does not apply to property taxed under Section 59-2-1302 or 59-2-1307.

(9) (a) A taxpayer who pays less than the full amount due on the taxpayer's property tax notice may, on a form provided by the county treasurer, direct how the county treasurer allocates the partial payment between:

(i) the total amount due for property tax;

(ii) the amount due for assessments, past due [~~local~~] special district fees, and other tax notice charges; and

(iii) any other amounts due on the property tax notice.

(b) The county treasurer shall comply with a direction submitted to the county treasurer in accordance with Subsection (9)(a).

(c) The provisions of this Subsection (9) do not:

(i) affect the right or ability of a local entity to pursue any available remedy for non-payment of any item listed on a taxpayer's property tax notice; or

(ii) toll or otherwise change any time period related to a remedy described in Subsection (9)(c)(i).

Section 107. Section **59-2-1710** is amended to read:

59-2-1710. Acquisition of land by governmental entity -- Requirements -- Rollback tax -- One-time in lieu fee payment -- Passage of title.

(1) For purposes of this section, "governmental entity" means:

(a) the United States;

(b) the state;

(c) a political subdivision of the state, including a county, city, town, school district, [~~local~~] special district, or special service district; or

(d) an entity created by the state or the United States, including an agency, board, bureau, commission, committee, department, division, institution, instrumentality, or office.

(2) (a) Except as provided in Subsections (3) and (4), land acquired by a governmental entity is subject to the rollback tax imposed by this part if:

(i) before the governmental entity acquires the land, the land is assessed under this part; and

(ii) after the governmental entity acquires the land, the land does not meet the requirements of Section 59-2-1703 for assessment under this part.

(b) A person dedicating a public right-of-way to a governmental entity shall pay the rollback tax imposed by this part if:

(i) a portion of the public right-of-way is located within a subdivision as defined in Section 10-9a-103; or

(ii) in exchange for the dedication, the person dedicating the public right-of-way receives money or other consideration.

(3) (a) Land acquired by a governmental entity is not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee payment as provided in Subsection (3)(b), if:

(i) the governmental entity acquires the land by eminent domain;

(ii) (A) the land is under the threat or imminence of eminent domain proceedings; and

(B) the governmental entity provides written notice of the proceedings to the owner; or

(iii) the land is donated to the governmental entity.

(b) (i) If a governmental entity acquires land under Subsection (3)(a)(iii), the governmental entity shall make a one-time in lieu fee payment:

(A) to the county treasurer of the county in which the land is located; and

(B) in an amount equal to the amount of rollback tax calculated under Section 59-2-1705.

(ii) A governmental entity that acquires land under Subsection (3)(a)(i) or (ii) shall

make a one-time in lieu fee payment to the county treasurer of the county in which the land is located:

(A) if the land remaining after the acquisition by the governmental entity meets the requirements of Section 59-2-1703, in an amount equal to the rollback tax under Section 59-2-1705 on the land acquired by the governmental entity; or

(B) if the land remaining after the acquisition by the governmental entity is less than two acres, in an amount equal to the rollback tax under Section 59-2-1705 on the land acquired by the governmental entity and the land remaining after the acquisition by the governmental entity.

(c) A county receiving an in lieu fee payment under Subsection (3)(b) shall distribute the revenues collected from the payment:

(i) to the taxing entities in which the land is located; and

(ii) in the same proportion as the revenue from real property taxes is distributed.

(4) If a governmental entity acquires land subject to assessment under this part, title to the land may not pass to the governmental entity until any tax, one-time in lieu fee payment, and applicable interest due under this part are paid to the county treasurer.

Section 108. Section **63A-5b-901** is amended to read:

63A-5b-901. Definitions.

As used in this part:

(1) "Applicant" means a person who submits a timely, qualified proposal to the division.

(2) "Condemnee" means the same as that term is defined in Section 78B-6-520.3.

(3) "Division-owned property" means real property, including an interest in real property, to which the division holds title, regardless of who occupies or uses the real property.

(4) "Local government entity" means a county, city, town, metro township, [~~local~~] special district, special service district, community development and renewal agency, conservation district, school district, or other political subdivision of the state.

(5) "Primary state agency" means a state agency for which the division holds title to real property that the state agency occupies or uses, as provided in Subsection 63A-5b-303(1)(a)(iv).

(6) "Private party" means a person who is not a state agency, local government entity,

or public purpose nonprofit entity.

(7) "Public purpose nonprofit entity" means a corporation, association, organization, or entity that:

(a) is located within the state;

(b) is not a state agency or local government entity;

(c) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; and

(d) operates to fulfill a public purpose.

(8) "Qualified proposal" means a written proposal that:

(a) meets the criteria established by the division by rule under Section 63A-5b-903;

(b) if submitted by a local government entity or public purpose nonprofit entity, explains the public purpose for which the local government entity or public purpose nonprofit entity seeks a transfer of ownership or lease of the vacant division-owned property; and

(c) the director determines will, if accepted and implemented, provide a material benefit to the state.

(9) "Secondary state agency" means a state agency:

(a) that is authorized to hold title to real property that the state agency occupies or uses, as provided in Section 63A-5b-304; and

(b) for which the division does not hold title to real property that the state agency occupies or uses.

(10) "State agency" means a department, division, office, entity, agency, or other unit of state government.

(11) "Transfer of ownership" includes a transfer of the ownership of vacant division-owned property that occurs as part of an exchange of the vacant division-owned property for another property.

(12) "Vacant division-owned property" means division-owned property that:

(a) a primary state agency is not occupying or using; and

(b) the director has determined should be made available for:

(i) use or occupancy by a primary state agency; or

(ii) a transfer of ownership or lease to a secondary state agency, local government entity, public purpose nonprofit entity, or private party.

(13) "Written proposal" means a brief statement in writing that explains:

(a) the proposed use or occupancy, transfer of ownership, or lease of vacant division-owned property; and

(b) how the state will benefit from the proposed use or occupancy, transfer of ownership, or lease.

Section 109. Section **63A-5b-1102** is amended to read:

63A-5b-1102. Memorials by the state or state agencies.

(1) As used in this section:

(a) "Authorizing agency" means an agency that holds title to state land.

(b) "Authorizing agency" does not mean a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

(2) The Legislature, the governor, or an authorizing agency may authorize the use or donation of state land for the purpose of maintaining, erecting, or contributing to the erection or maintenance of a memorial to commemorate individuals who have:

(a) participated in or have given their lives in any of the one or more wars or military conflicts in which the United States of America has been a participant; or

(b) given their lives in association with public service on behalf of the state, including firefighters, peace officers, highway patrol officers, or other public servants.

(3) The use or donation of state land in relation to a memorial described in Subsection (2) may include:

(a) using or appropriating public funds for the purchase, development, improvement, or maintenance of state land on which a memorial is located or established;

(b) using or appropriating public funds for the erection, improvement, or maintenance of a memorial;

(c) donating or selling state land for use in relation to a memorial; or

(d) authorizing the use of state land for a memorial that is funded or maintained in part or in full by another public or private entity.

(4) The Legislature, the governor, or an authorizing agency may specify the form, placement, and design of a memorial that is subject to this section if the Legislature, the

governor, or the authorizing agency holds title to, has authority over, or donates the land on which a memorial is established.

(5) A memorial within the definition of a capital development project, as defined in Section 63A-5b-401, is required to be approved as provided for in Section 63A-5b-402.

(6) Nothing in this section may be construed as a prohibition of a memorial, including a memorial for a purpose not covered by this section, that:

(a) is erected within the approval requirements in effect at the time of the memorial's erection; or

(b) may be duly authorized through other legal means.

Section 110. Section **63A-9-101** is amended to read:

63A-9-101. Definitions.

As used in this part:

(1) (a) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(b) "Agency" includes the State Board of Education and each higher education institution described in Section 53B-1-102.

(c) "Agency" includes the legislative and judicial branches.

(2) "Committee" means the Motor Vehicle Review Committee created by this chapter.

(3) "Director" means the director of the division.

(4) "Division" means the Division of Fleet Operations created by this chapter.

(5) "Executive director" means the executive director of the Department of Government Operations.

(6) "Local agency" means:

(a) a county;

(b) a municipality;

(c) a school district;

(d) a [~~local~~] special district;

(e) a special service district;

(f) an interlocal entity as defined under Section 11-13-103; or

(g) any other political subdivision of the state, including a local commission, board, or

other governmental entity that is vested with the authority to make decisions regarding the public's business.

(7) (a) "Motor vehicle" means a self-propelled vehicle capable of carrying passengers.

(b) "Motor vehicle" includes vehicles used for construction and other nontransportation purposes.

(8) "State vehicle" means each motor vehicle owned, operated, or in the possession of an agency.

Section 111. Section **63A-9-401** is amended to read:

63A-9-401. Division -- Duties.

(1) The division shall:

(a) perform all administrative duties and functions related to management of state vehicles;

(b) coordinate all purchases of state vehicles;

(c) establish one or more fleet automation and information systems for state vehicles;

(d) make rules establishing requirements for:

(i) maintenance operations for state vehicles;

(ii) use requirements for state vehicles;

(iii) fleet safety and loss prevention programs;

(iv) preventative maintenance programs;

(v) procurement of state vehicles, including:

(A) vehicle standards;

(B) alternative fuel vehicle requirements;

(C) short-term lease programs;

(D) equipment installation; and

(E) warranty recovery programs;

(vi) fuel management programs;

(vii) cost management programs;

(viii) business and personal use practices, including commute standards;

(ix) cost recovery and billing procedures;

(x) disposal of state vehicles;

(xi) reassignment of state vehicles and reallocation of vehicles throughout the fleet;

(xii) standard use and rate structures for state vehicles; and

(xiii) insurance and risk management requirements;

(e) establish a parts inventory;

(f) create and administer a fuel dispensing services program that meets the requirements of Subsection (2);

(g) emphasize customer service when dealing with agencies and agency employees;

(h) conduct an annual audit of all state vehicles for compliance with division requirements;

(i) before charging a rate, fee, or other amount to an executive branch agency, or to a subscriber of services other than an executive branch agency:

(i) submit the proposed rates, fees, and cost analysis to the Rate Committee established in Section 63A-1-114; and

(ii) obtain the approval of the Legislature as required by Section 63J-1-410 or 63J-1-504; and

(j) conduct an annual market analysis of proposed rates and fees, which analysis shall include a comparison of the division's rates and fees with the fees of other public or private sector providers where comparable services and rates are reasonably available.

(2) The division shall operate a fuel dispensing services program in a manner that:

(a) reduces the risk of environmental damage and subsequent liability for leaks involving state-owned underground storage tanks;

(b) eliminates fuel site duplication and reduces overall costs associated with fuel dispensing;

(c) provides efficient fuel management and efficient and accurate accounting of fuel-related expenses;

(d) where practicable, privatizes portions of the state's fuel dispensing system;

(e) provides central planning for fuel contingencies;

(f) establishes fuel dispensing sites that meet geographical distribution needs and that reflect usage patterns;

(g) where practicable, uses alternative sources of energy; and

(h) provides safe, accessible fuel supplies in an emergency.

(3) The division shall:

(a) ensure that the state and each of its agencies comply with state and federal law and state and federal rules and regulations governing underground storage tanks;

(b) coordinate the installation of new state-owned underground storage tanks and the upgrading or retrofitting of existing underground storage tanks;

(c) by no later than June 30, 2025, ensure that an underground storage tank qualifies for a rebate, provided under Subsection 19-6-410.5(5)(d), of a portion of the environmental assurance fee described in Subsection 19-6-410.5(4), if the underground storage tank is owned by:

(i) the state;

(ii) a state agency; or

(iii) a county, municipality, school district, [~~local~~{ }] special{ } district, special service district, or federal agency that has subscribed to the fuel dispensing service provided by the division under Subsection (6)(b);

(d) report to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee by no later than:

(i) November 30, 2020, on the status of the requirements of Subsection (3)(c); and

(ii) November 30, 2024, on whether:

(A) the requirements of Subsection (3)(c) have been met; and

(B) additional funding is needed to accomplish the requirements of Subsection (3)(c); and

(e) ensure that counties, municipalities, school districts, [~~local~~] special districts, and special service districts subscribing to services provided by the division sign a contract that:

(i) establishes the duties and responsibilities of the parties;

(ii) establishes the cost for the services; and

(iii) defines the liability of the parties.

(4) In fulfilling the requirements of Subsection (3)(c), the division may give priority to underground storage tanks owned by the state or a state agency under Subsections (3)(c)(i) and (ii).

(5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director of the Division of Fleet Operations:

(i) may make rules governing fuel dispensing; and

(ii) shall make rules establishing standards and procedures for purchasing the most economically appropriate size and type of vehicle for the purposes and driving conditions for which the vehicle will be used, including procedures for granting exceptions to the standards by the executive director of the Department of Government Operations.

(b) Rules made under Subsection (5)(a)(ii):

(i) shall designate a standard vehicle size and type that shall be designated as the statewide standard vehicle for fleet expansion and vehicle replacement;

(ii) may designate different standard vehicle size and types based on defined categories of vehicle use;

(iii) may, when determining a standard vehicle size and type for a specific category of vehicle use, consider the following factors affecting the vehicle class:

(A) size requirements;

(B) economic savings;

(C) fuel efficiency;

(D) driving and use requirements;

(E) safety;

(F) maintenance requirements;

(G) resale value; and

(H) the requirements of Section 63A-9-403; and

(iv) shall require agencies that request a vehicle size and type that is different from the standard vehicle size and type to:

(A) submit a written request for a nonstandard vehicle to the division that contains the following:

(I) the make and model of the vehicle requested, including acceptable alternate vehicle makes and models as applicable;

(II) the reasons justifying the need for a nonstandard vehicle size or type;

(III) the date of the request; and

(IV) the name and signature of the person making the request; and

(B) obtain the division's written approval for the nonstandard vehicle.

(6) (a) (i) Each state agency and each higher education institution shall subscribe to the fuel dispensing services provided by the division.

(ii) A state agency may not provide or subscribe to any other fuel dispensing services, systems, or products other than those provided by the division.

(b) Counties, municipalities, school districts, [~~local~~] special districts, special service districts, and federal agencies may subscribe to the fuel dispensing services provided by the division if:

(i) the county or municipal legislative body, the school district, or the [~~local~~] special district or special service district board recommends that the county, municipality, school district, [~~local~~] special district, or special service district subscribe to the fuel dispensing services of the division; and

(ii) the division approves participation in the program by that government unit.

(7) The director, with the approval of the executive director, may delegate functions to institutions of higher education, by contract or other means authorized by law, if:

(a) the agency or institution of higher education has requested the authority;

(b) in the judgment of the director, the state agency or institution has the necessary resources and skills to perform the delegated responsibilities; and

(c) the delegation of authority is in the best interest of the state and the function delegated is accomplished according to provisions contained in law or rule.

Section 112. Section **63A-15-102** is amended to read:

63A-15-102. Definitions.

(1) "Commission" means the Political Subdivisions Ethics Review Commission established in Section 63A-15-201.

(2) "Complainant" means a person who files a complaint in accordance with Section 63A-15-501.

(3) "Ethics violation" means a violation of:

(a) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

(b) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

(c) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(4) "Local political subdivision ethics commission" means an ethics commission established by a political subdivision within the political subdivision or with another political subdivision by interlocal agreement in accordance with Section 63A-15-103.

(5) "Political subdivision" means a county, municipality, school district, community

reinvestment agency, [~~local~~] special district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, a local building authority, or any other governmental subdivision or public corporation.

(6) (a) "Political subdivision employee" means a person who is:

(i) (A) in a municipality, employed as a city manager or non-elected chief executive on a full or part-time basis; or

(B) employed as the non-elected chief executive by a political subdivision other than a municipality on a full or part-time basis; and

(ii) subject to:

(A) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

(B) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

(C) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(b) "Political subdivision employee" does not include:

(i) a person who is a political subdivision officer;

(ii) an employee of a state entity; or

(iii) a legislative employee as defined in Section 67-16-3.

(7) "Political subdivision governing body" means:

(a) for a county, the county legislative body as defined in Section 68-3-12.5;

(b) for a municipality, the council of the city or town;

(c) for a school district, the local board of education described in Section 53G-4-201;

(d) for a community reinvestment agency, the agency board described in Section 17C-1-203;

(e) for a [~~local~~] special district, the board of trustees described in Section 17B-1-301;

(f) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301;

(g) for an entity created by an interlocal agreement, the governing body of an interlocal entity, as defined in Section 11-13-103;

(h) for a local building authority, the governing body, as defined in Section 17D-2-102,

that creates the local building authority; or

(i) for any other governmental subdivision or public corporation, the board or other body authorized to make executive and management decisions for the subdivision or public corporation.

(8) (a) "Political subdivision officer" means a person elected in a political subdivision who is subject to:

(i) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

(ii) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

(iii) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(b) "Political subdivision officer" does not include:

(i) a person elected or appointed to a state entity;

(ii) the governor;

(iii) the lieutenant governor;

(iv) a member or member-elect of either house of the Legislature; or

(v) a member of Utah's congressional delegation.

(9) "Respondent" means a person who files a response in accordance with Section 63A-15-604.

Section 113. Section **63A-15-201** is amended to read:

63A-15-201. Commission established -- Membership.

(1) There is established a Political Subdivisions Ethics Review Commission.

(2) The commission is composed of seven individuals, each of whom is registered to vote in this state and appointed by the governor with the advice and consent of the Senate, as follows:

(a) one member who has served, but no longer serves, as a judge of a court of record in this state;

(b) one member who has served as a mayor or municipal council member no more recently than four years before the date of appointment;

(c) one member who has served as a member of a local board of education no more recently than four years before the date of appointment;

(d) two members who are lay persons; and

(e) two members, each of whom is one of the following:

(i) a municipal mayor no more recently than four years before the date of appointment;

(ii) a municipal council member no more recently than four years before the date of appointment;

(iii) a county mayor no more recently than four years before the date of appointment;

(iv) a county commissioner no more recently than four years before the date of appointment;

(v) a special service district administrative control board member no more recently than four years before the date of appointment;

(vi) a [~~local~~] special district board of trustees member no more recently than four years before the date of appointment; or

(vii) a judge who has served, but no longer serves, as a judge of a court of record in this state.

(3) (a) A member of the commission may not, during the member's term of office on the commission, act or serve as:

(i) a political subdivision officer;

(ii) a political subdivision employee;

(iii) an agency head as defined in Section 67-16-3;

(iv) a lobbyist as defined in Section 36-11-102; or

(v) a principal as defined in Section 36-11-102.

(b) In addition to the seven members described in Subsection (2), the governor shall, with the advice and consent of the Senate, appoint one individual as an alternate member of the commission who:

(i) may be a lay person;

(ii) shall be registered to vote in the state; and

(iii) complies with the requirements described in Subsection (3)(a).

(c) The alternate member described in Subsection (3)(b):

(i) shall serve as a member of the commission in the place of one of the seven members described in Subsection (2) if that member is temporarily unable or unavailable to participate in a commission function or is disqualified under Section 63A-15-303; and

(ii) may not cast a vote on the commission unless the alternate member is serving in the capacity described in Subsection (3)(c)(i).

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), each member of the commission shall serve a four-year term.

(ii) When appointing the initial members upon formation of the commission, a member described in Subsections (2)(b) through (d) shall be appointed to a two-year term so that approximately half of the commission is appointed every two years.

(b) (i) When a vacancy occurs in the commission's membership for any reason, a replacement member shall be appointed for the unexpired term of the vacating member using the procedures and requirements of Subsection (2).

(ii) For the purposes of this section, an appointment for an unexpired term of a vacating member is not considered a full term.

(c) A member may not be appointed to serve for more than two full terms, whether those terms are two or four years.

(d) A member of the commission may resign from the commission by giving one month's written notice of the resignation to the governor.

(e) The governor shall remove a member from the commission if the member:

(i) is convicted of, or enters a plea of guilty to, a crime involving moral turpitude;

(ii) enters a plea of no contest or a plea in abeyance to a crime involving moral turpitude; or

(iii) fails to meet the qualifications of office as provided in this section.

(f) (i) If a commission member is accused of wrongdoing in a complaint, or if a commission member has a conflict of interest in relation to a matter before the commission:

(A) the alternate member described in Subsection (3)(b) shall serve in the member's place for the purposes of reviewing the complaint; or

(B) if the alternate member has already taken the place of another commission member or is otherwise not available, the commission shall appoint another individual to temporarily serve in the member's place for the purposes of reviewing the complaint.

(ii) An individual appointed by the commission under Subsection (4)(f)(i)(B):

(A) is not required to be confirmed by the Senate;

(B) may be a lay person;

(C) shall be registered to vote in the state; and

(D) shall comply with Subsection (3)(a).

(5) (a) Except as provided in Subsection (5)(b)(i), a member of the commission may not receive compensation or benefits for the member's service.

(b) (i) A member may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) A member may decline to receive per diem and expenses for the member's service.

(6) The commission members shall, by a majority vote, elect a commission chair from among the commission members.

Section 114. Section **63C-24-102** is amended to read:

63C-24-102. Definitions.

As used in this chapter:

(1) "Commission" means the Personal Privacy Oversight Commission created in Section 63C-24-201.

(2) (a) "Government entity" means the state, a county, a municipality, a higher education institution, a [~~local~~] special district, a special service district, a school district, an independent entity, or any other political subdivision of the state or an administrative subunit of any political subdivision, including a law enforcement entity.

(b) "Government entity" includes an agent of an entity described in Subsection (2)(a).

(3) "Independent entity" means the same as that term is defined in Section 63E-1-102.

(4) (a) "Personal data" means any information relating to an identified or identifiable individual.

(b) "Personal data" includes personally identifying information.

(5) (a) "Privacy practice" means the acquisition, use, storage, or disposal of personal data.

(b) "Privacy practice" includes:

(i) a technology use related to personal data; and

(ii) policies related to the protection, storage, sharing, and retention of personal data.

Section 115. Section **63E-1-102** is amended to read:

63E-1-102. Definitions -- List of independent entities.

As used in this title:

(1) "Authorizing statute" means the statute creating an entity as an independent entity.

(2) "Committee" means the Retirement and Independent Entities Committee created by Section 63E-1-201.

(3) "Independent corporation" means a corporation incorporated in accordance with Chapter 2, Independent Corporations Act.

(4) (a) "Independent entity" means an entity having a public purpose relating to the state or its citizens that is individually created by the state or is given by the state the right to exist and conduct its affairs as an:

(i) independent state agency; or

(ii) independent corporation.

(b) "Independent entity" includes the:

(i) Utah Beef Council, created by Section 4-21-103;

(ii) Utah Dairy Commission created by Section 4-22-103;

(iii) Heber Valley Historic Railroad Authority created by Section 63H-4-102;

(iv) Utah Housing Corporation created by Section 63H-8-201;

(v) Utah State Fair Corporation created by Section 63H-6-103;

(vi) Utah State Retirement Office created by Section 49-11-201;

(vii) School and Institutional Trust Lands Administration created by Section 53C-1-201;

(viii) School and Institutional Trust Fund Office created by Section 53D-1-201;

(ix) Utah Communications Authority created by Section 63H-7a-201;

(x) Utah Capital Investment Corporation created by Section 63N-6-301; and

(xi) Military Installation Development Authority created by Section 63H-1-201.

(c) Notwithstanding this Subsection (4), "independent entity" does not include:

(i) the Public Service Commission of Utah created by Section 54-1-1;

(ii) an institution within the state system of higher education;

(iii) a city, county, or town;

(iv) a local school district;

(v) a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts; or

(vi) a special service district under Title 17D, Chapter 1, Special Service District Act.

(5) "Independent state agency" means an entity that is created by the state, but is independent of the governor's direct supervisory control.

(6) "Money held in trust" means money maintained for the benefit of:

(a) one or more private individuals, including public employees;

(b) one or more public or private entities; or

(c) the owners of a quasi-public corporation.

(7) "Public corporation" means an artificial person, public in ownership, individually created by the state as a body politic and corporate for the administration of a public purpose relating to the state or its citizens.

(8) "Quasi-public corporation" means an artificial person, private in ownership, individually created as a corporation by the state, which has accepted from the state the grant of a franchise or contract involving the performance of a public purpose relating to the state or its citizens.

Section 116. Section **63G-2-103** is amended to read:

63G-2-103. Definitions.

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:

(a) the time and general nature of police, fire, and paramedic calls made to the agency; and

(b) any arrests or jail bookings made by the agency.

(3) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(4) (a) "Computer program" means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

(b) "Computer program" does not mean:

(i) the original data, including numbers, text, voice, graphics, and images;

(ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or

(iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.

(5) (a) "Contractor" means:

(i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or

(ii) any private, nonprofit organization that receives funds from a governmental entity.

(b) "Contractor" does not mean a private provider.

(6) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

(7) "Designation," "designate," and their derivative forms mean indicating, based on a governmental entity's familiarity with a record series or based on a governmental entity's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

(8) "Elected official" means each person elected to a state office, county office, municipal office, school board or school district office, [~~local~~] special district office, or special service district office, but does not include judges.

(9) "Explosive" means a chemical compound, device, or mixture:

(a) commonly used or intended for the purpose of producing an explosion; and

(b) that contains oxidizing or combustive units or other ingredients in proportions,

quantities, or packing so that:

(i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and

(ii) the resultant gaseous pressures are capable of:

(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

(10) "Government audit agency" means any governmental entity that conducts an audit.

(11) (a) "Governmental entity" means:

(i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the Utah Board of Higher Education, and the State Archives;

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iv) any state-funded institution of higher education or public education; or

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) "Governmental entity" also means:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public's business;

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking;

(iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

(iv) an association as defined in Section 53G-7-1101;

(v) the Utah Independent Redistricting Commission; and

(vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or more law enforcement officers, as defined in Section 53-13-103.

(c) "Governmental entity" does not include the Utah Educational Savings Plan created in Section 53B-8a-103.

(12) "Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

(13) "Individual" means a human being.

(14) (a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:

(i) the date, time, location, and nature of the complaint, the incident, or offense;

(ii) names of victims;

(iii) the nature or general scope of the agency's initial actions taken in response to the incident;

(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or

(vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(c) Initial contact reports do not include accident reports, as that term is described in Title 41, Chapter 6a, Part 4, Accident Responsibilities.

(15) "Legislative body" means the Legislature.

(16) "Notice of compliance" means a statement confirming that a governmental entity

has complied with an order of the State Records Committee.

(17) "Person" means:

(a) an individual;

(b) a nonprofit or profit corporation;

(c) a partnership;

(d) a sole proprietorship;

(e) other type of business organization; or

(f) any combination acting in concert with one another.

(18) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

(19) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

(20) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

(21) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

(22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

(b) "Record" does not mean:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity:

(A) in a capacity other than the employee's or officer's governmental capacity; or

(B) that is unrelated to the conduct of the public's business;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

(iii) material that is legally owned by an individual in the individual's private capacity;

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working;

(x) a computer program that is developed or purchased by or for any governmental entity for its own use;

(xi) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body, other than an association or appeals panel as defined in Section 53G-7-1101, charged by law with performing a quasi-judicial function;

(xii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;

(xiii) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

(xiv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205;

(xv) a video or audio recording of an interview, or a transcript of the video or audio

recording, that is conducted at a Children's Justice Center established under Section 67-5b-102;

(xvi) child pornography, as defined by Section 76-5b-103;

(xvii) before final disposition of an ethics complaint occurs, a video or audio recording of the closed portion of a meeting or hearing of:

(A) a Senate or House Ethics Committee;

(B) the Independent Legislative Ethics Commission;

(C) the Independent Executive Branch Ethics Commission, created in Section 63A-14-202; or

(D) the Political Subdivisions Ethics Review Commission established in Section 63A-15-201; or

(xviii) confidential communication described in Section 58-60-102, 58-61-102, or 58-61-702.

(23) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

(24) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

(25) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

(26) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

(i) by an institution within the state system of higher education defined in Section 53B-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or

(ii) federal, state, or local governmental entity.

(27) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.

(28) "State archivist" means the director of the state archives.

(29) "State Records Committee" means the State Records Committee created in Section 63G-2-501.

(30) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

Section 117. Section **63G-2-305** is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration,

employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described

property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques,

procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in

Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents,

copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1;

(44) information contained in the Licensing Information System described in Title 80, Chapter 2, Child Welfare Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote, in relation to whether a judge meets or exceeds minimum performance standards under Subsection 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation

report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health or the Division of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(65) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care

facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(66) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;

(67) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(68) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(69) work papers as defined in Section 31A-2-204;

(70) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(71) a record submitted to the Insurance Department in accordance with Section 31A-37-201;

(72) a record described in Section 31A-37-503;

(73) any record created by the Division of Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

(74) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(79) a record submitted to the Insurance Department under Section 31A-48-103;

(80) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;

(81) an image taken of an individual during the process of booking the individual into jail, unless:

(a) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

(b) a law enforcement agency releases or disseminates the image:

(i) after determining that the individual is a fugitive or an imminent threat to an individual or to public safety and releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

(ii) to a potential witness or other individual with direct knowledge of events relevant to a criminal investigation or criminal proceeding for the purpose of identifying or locating an individual in connection with the criminal investigation or criminal proceeding; or

(c) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest;

(82) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

(83) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection (83) may not be used to restrict access to a record evidencing a final contract or approval decision;

(84) the following records of a drinking water or wastewater facility:

(a) an engineering or architectural drawing of the drinking water or wastewater facility; and

(b) except as provided in Section 63G-2-106, a record detailing tools or processes the drinking water or wastewater facility uses to secure, or prohibit access to, the records described in Subsection (84)(a); and

(85) a statement that an employee of a governmental entity provides to the governmental entity as part of the governmental entity's personnel or administrative investigation into potential misconduct involving the employee if the governmental entity:

(a) requires the statement under threat of employment disciplinary action, including possible termination of employment, for the employee's refusal to provide the statement; and

(b) provides the employee assurance that the statement cannot be used against the employee in any criminal proceeding.

Section 118. Section **63G-6a-103** is amended to read:

63G-6a-103. Definitions.

As used in this chapter:

(1) "Approved vendor" means a person who has been approved for inclusion on an approved vendor list through the approved vendor list process.

(2) "Approved vendor list" means a list of approved vendors established under Section 63G-6a-507.

(3) "Approved vendor list process" means the procurement process described in Section 63G-6a-507.

(4) "Bidder" means a person who submits a bid or price quote in response to an invitation for bids.

(5) "Bidding process" means the procurement process described in Part 6, Bidding.

(6) "Board" means the Utah State Procurement Policy Board, created in Section 63G-6a-202.

(7) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.

(8) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.

(9) "Chief procurement officer" means the individual appointed under Section

63A-2-102.

(10) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:

(a) except:

(i) reviewing a solicitation to verify that it is in proper form; and

(ii) causing the publication of a notice of a solicitation; and

(b) including:

(i) preparing any solicitation document;

(ii) appointing an evaluation committee;

(iii) conducting the evaluation process, except the process relating to scores calculated for costs of proposals;

(iv) selecting and recommending the person to be awarded a contract;

(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and

(vi) contract administration.

(11) "Conservation district" means the same as that term is defined in Section 17D-3-102.

(12) "Construction project":

(a) means a project for the construction, renovation, alteration, improvement, or repair of a public facility on real property, including all services, labor, supplies, and materials for the project; and

(b) does not include services and supplies for the routine, day-to-day operation, repair, or maintenance of an existing public facility.

(13) "Construction manager/general contractor":

(a) means a contractor who enters into a contract:

(i) for the management of a construction project; and

(ii) that allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services; and

(b) does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to

meet subcontracted portions of change orders approved within the scope of the project.

(14) "Construction subcontractor":

(a) means a person under contract with a contractor or another subcontractor to provide services or labor for the design or construction of a construction project;

(b) includes a general contractor or specialty contractor licensed or exempt from licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

(c) does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor for a construction project.

(15) "Contract" means an agreement for a procurement.

(16) "Contract administration" means all functions, duties, and responsibilities associated with managing, overseeing, and carrying out a contract between a procurement unit and a contractor, including:

(a) implementing the contract;

(b) ensuring compliance with the contract terms and conditions by the conducting procurement unit and the contractor;

(c) executing change orders;

(d) processing contract amendments;

(e) resolving, to the extent practicable, contract disputes;

(f) curing contract errors and deficiencies;

(g) terminating a contract;

(h) measuring or evaluating completed work and contractor performance;

(i) computing payments under the contract; and

(j) closing out a contract.

(17) "Contractor" means a person who is awarded a contract with a procurement unit.

(18) "Cooperative procurement" means procurement conducted by, or on behalf of:

(a) more than one procurement unit; or

(b) a procurement unit and a cooperative purchasing organization.

(19) "Cooperative purchasing organization" means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

(20) "Cost-plus-a-percentage-of-cost contract" means a contract under which the

contractor is paid a percentage of the total actual expenses or costs in addition to the contractor's actual expenses or costs.

(21) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

(22) "Days" means calendar days, unless expressly provided otherwise.

(23) "Definite quantity contract" means a fixed price contract that provides for a specified amount of supplies over a specified period, with deliveries scheduled according to a specified schedule.

(24) "Design professional" means:

(a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act;

(b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act; or

(c) an individual certified as a commercial interior designer under Title 58, Chapter 86, State Certification of Commercial Interior Designers Act.

(25) "Design professional procurement process" means the procurement process described in Part 15, Design Professional Services.

(26) "Design professional services" means:

(a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;

(b) professional engineering as defined in Section 58-22-102;

(c) master planning and programming services; or

(d) services within the scope of the practice of commercial interior design, as defined in Section 58-86-102.

(27) "Design-build" means the procurement of design professional services and construction by the use of a single contract.

(28) "Division" means the Division of Purchasing and General Services, created in Section 63A-2-101.

(29) "Educational procurement unit" means:

(a) a school district;

(b) a public school, including a local school board or a charter school;

(c) the Utah Schools for the Deaf and the Blind;

(d) the Utah Education and Telehealth Network;

(e) an institution of higher education of the state described in Section 53B-1-102; or

(f) the State Board of Education.

(30) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(31) (a) "Executive branch procurement unit" means a department, division, office, bureau, agency, or other organization within the state executive branch.

(b) "Executive branch procurement unit" does not include the Colorado River Authority of Utah as provided in Section 63M-14-210.

(32) "Facilities division" means the Division of Facilities Construction and Management, created in Section 63A-5b-301.

(33) "Fixed price contract" means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:

(a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or

(b) an adjustment is required by law.

(34) "Fixed price contract with price adjustment" means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:

(a) is based on the consumer price index or another commercially acceptable index, source, or formula; and

(b) is not based on a percentage of the cost to the contractor.

(35) "Grant" means an expenditure of public funds or other assistance, or an agreement

to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.

(36) "Immaterial error":

(a) means an irregularity or abnormality that is:

(i) a matter of form that does not affect substance; or

(ii) an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

(b) includes:

(i) a missing signature, missing acknowledgment of an addendum, or missing copy of a professional license, bond, or insurance certificate;

(ii) a typographical error;

(iii) an error resulting from an inaccuracy or omission in the solicitation; and

(iv) any other error that the procurement official reasonably considers to be immaterial.

(37) "Indefinite quantity contract" means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b) (i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(38) "Independent procurement unit" means:

(a) (i) a legislative procurement unit;

(ii) a judicial branch procurement unit;

(iii) an educational procurement unit;

(iv) a local government procurement unit;

(v) a conservation district;

(vi) a local building authority;

(vii) a [~~local~~] special district;

(viii) a public corporation;

(ix) a special service district; or

(x) the Utah Communications Authority, established in Section 63H-7a-201;

(b) the facilities division, but only to the extent of the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities;

(c) the attorney general, but only to the extent of the procurement authority provided under Title 67, Chapter 5, Attorney General;

(d) the Department of Transportation, but only to the extent of the procurement authority provided under Title 72, Transportation Code; or

(e) any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, but only to the extent of that statutory procurement authority.

(39) "Invitation for bids":

(a) means a document used to solicit:

(i) bids to provide a procurement item to a procurement unit; or

(ii) quotes for a price of a procurement item to be provided to a procurement unit; and

(b) includes all documents attached to or incorporated by reference in a document described in Subsection (39)(a).

(40) "Issuing procurement unit" means a procurement unit that:

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates and approves the terms and conditions of a contract.

(41) "Judicial procurement unit" means:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals;

(c) the Judicial Council;

(d) a state judicial district; or

(e) an office, committee, subcommittee, or other organization within the state judicial branch.

(42) "Labor hour contract" is a contract under which:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

(43) "Legislative procurement unit" means:

(a) the Legislature;

(b) the Senate;

(c) the House of Representatives;

(d) a staff office of the Legislature, the Senate, or the House of Representatives; or

(e) a committee, subcommittee, commission, or other organization:

(i) within the state legislative branch; or

(ii) (A) that is created by statute to advise or make recommendations to the Legislature;

(B) the membership of which includes legislators; and

(C) for which the Office of Legislative Research and General Counsel provides staff support.

(44) "Local building authority" means the same as that term is defined in Section 17D-2-102.

[~~(45) "Local district" means the same as that term is defined in Section 17B-1-102.~~]

[~~(46)~~] (45) "Local government procurement unit" means:

(a) a county, municipality, or project entity, and each office of the county, municipality, or project entity, unless:

(i) the county or municipality adopts a procurement code by ordinance; or

(ii) the project entity adopts a procurement code through the process described in Section 11-13-316;

(b) (i) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency of that county or municipality; and

(ii) a project entity that has adopted this entire chapter through the process described in Subsection 11-13-316; or

(c) a county, municipality, or project entity, and each office of the county, municipality, or project entity that has adopted a portion of this chapter to the extent that:

(i) a term in the ordinance is used in the adopted chapter; or

(ii) a term in the ordinance is used in the language a project entity adopts in its procurement code through the process described in Section 11-13-316.

[~~(47)~~] (46) "Multiple award contracts" means the award of a contract for an indefinite quantity of a procurement item to more than one person.

[~~(48)~~] (47) "Multiyear contract" means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

[~~(49)~~] (48) "Municipality" means a city, town, or metro township.

[~~(50)~~] (49) "Nonadopting local government procurement unit" means:

(a) a county or municipality that has not adopted Part 16, Protests, Part 17, Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest or Appeal; and

(b) each office or agency of a county or municipality described in Subsection (50)(a).

[~~(51)~~] (50) "Offeror" means a person who submits a proposal in response to a request for proposals.

[~~(52)~~] (51) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

[~~(53)~~] (52) "Procure" means to acquire a procurement item through a procurement.

[~~(54)~~] (53) "Procurement" means the acquisition of a procurement item through an expenditure of public funds, or an agreement to expend public funds, including an acquisition through a public-private partnership.

[~~(55)~~] (54) "Procurement item" means an item of personal property, a technology, a service, or a construction project.

[~~(56)~~] (55) "Procurement official" means:

(a) for a procurement unit other than an independent procurement unit, the chief procurement officer;

(b) for a legislative procurement unit, the individual, individuals, or body designated in a policy adopted by the Legislative Management Committee;

(c) for a judicial procurement unit, the Judicial Council or an individual or body designated by the Judicial Council by rule;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a [~~local~~] special district, the board of trustees of the [~~local~~] special district or the board of trustees' designee;

(f) for a special service district, the governing body of the special service district or the governing body's designee;

(g) for a local building authority, the board of directors of the local building authority

or the board of directors' designee;

(h) for a conservation district, the board of supervisors of the conservation district or the board of supervisors' designee;

(i) for a public corporation, the board of directors of the public corporation or the board of directors' designee;

(j) for a school district or any school or entity within a school district, the board of the school district or the board's designee;

(k) for a charter school, the individual or body with executive authority over the charter school or the designee of the individual or body;

(l) for an institution of higher education described in Section 53B-2-101, the president of the institution of higher education or the president's designee;

(m) for the State Board of Education, the State Board of Education or the State Board of Education's designee;

(n) for the Utah Board of Higher Education, the Commissioner of Higher Education or the designee of the Commissioner of Higher Education;

(o) for the Utah Communications Authority, established in Section 63H-7a-201, the executive director of the Utah Communications Authority or the executive director's designee; or

(p) (i) for the facilities division, and only to the extent of procurement activities of the facilities division as an independent procurement unit under the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities, the director of the facilities division or the director's designee;

(ii) for the attorney general, and only to the extent of procurement activities of the attorney general as an independent procurement unit under the procurement authority provided under Title 67, Chapter 5, Attorney General, the attorney general or the attorney general's designee;

(iii) for the Department of Transportation created in Section 72-1-201, and only to the extent of procurement activities of the Department of Transportation as an independent procurement unit under the procurement authority provided under Title 72, Transportation Code, the executive director of the Department of Transportation or the executive director's designee; or

(iv) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, and only to the extent of the procurement activities of the department, division, office, or entity as an independent procurement unit under the procurement authority provided outside this chapter for the department, division, office, or entity, the chief executive officer of the department, division, office, or entity or the chief executive officer's designee.

[~~(57)~~] (56) "Procurement unit":

(a) means:

(i) a legislative procurement unit;

(ii) an executive branch procurement unit;

(iii) a judicial procurement unit;

(iv) an educational procurement unit;

(v) the Utah Communications Authority, established in Section 63H-7a-201;

(vi) a local government procurement unit;

(vii) a [~~local~~] special district;

(viii) a special service district;

(ix) a local building authority;

(x) a conservation district; and

(xi) a public corporation; and

(b) except for a project entity, to the extent that a project entity is subject to this chapter as described in Section 11-13-316, does not include a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

[~~(58)~~] (57) "Professional service" means labor, effort, or work that requires specialized knowledge, expertise, and discretion, including labor, effort, or work in the field of:

(a) accounting;

(b) administrative law judge service;

(c) architecture;

(d) construction design and management;

(e) engineering;

(f) financial services;

(g) information technology;

(h) the law;

(i) medicine;

(j) psychiatry; or

(k) underwriting.

[~~(59)~~] (58) "Protest officer" means:

(a) for the division or an independent procurement unit:

(i) the procurement official;

(ii) the procurement official's designee who is an employee of the procurement unit; or

(iii) a person designated by rule made by the rulemaking authority; or

(b) for a procurement unit other than an independent procurement unit, the chief procurement officer or the chief procurement officer's designee who is an employee of the division .

[~~(60)~~] (59) "Public corporation" means the same as that term is defined in Section 63E-1-102.

[~~(61)~~] (60) "Project entity" means the same as that term is defined in Section 11-13-103.

[~~(62)~~] (61) "Public entity" means the state or any other government entity within the state that expends public funds.

[~~(63)~~] (62) "Public facility" means a building, structure, infrastructure, improvement, or other facility of a public entity.

[~~(64)~~] (63) "Public funds" means money, regardless of its source, including from the federal government, that is owned or held by a procurement unit.

[~~(65)~~] (64) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

[~~(66)~~] (65) "Public-private partnership" means an arrangement or agreement, occurring on or after January 1, 2017, between a procurement unit and one or more contractors to provide for a public need through the development or operation of a project in which the contractor or contractors share with the procurement unit the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

[~~(67)~~] (66) "Qualified vendor" means a vendor who:

(a) is responsible; and

(b) submits a responsive statement of qualifications under Section 63G-6a-410 that meets the minimum mandatory requirements, evaluation criteria, and any applicable score thresholds set forth in the request for statement of qualifications.

[~~(68)~~] (67) "Real property" means land and any building, fixture, improvement, appurtenance, structure, or other development that is permanently affixed to land.

[~~(69)~~] (68) "Request for information" means a nonbinding process through which a procurement unit requests information relating to a procurement item.

[~~(70)~~] (69) "Request for proposals" means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other documents that are attached to that document or incorporated in that document by reference.

[~~(71)~~] (70) "Request for proposals process" means the procurement process described in Part 7, Request for Proposals.

[~~(72)~~] (71) "Request for statement of qualifications" means a document used to solicit information about the qualifications of a person interested in responding to a potential procurement, including all other documents attached to that document or incorporated in that document by reference.

[~~(73)~~] (72) "Requirements contract" means a contract:

(a) under which a contractor agrees to provide a procurement unit's entire requirements for certain procurement items at prices specified in the contract during the contract period; and

(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

[~~(74)~~] (73) "Responsible" means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

[~~(75)~~] (74) "Responsive" means conforming in all material respects to the requirements of a solicitation.

[~~(76)~~] (75) "Rule" includes a policy or regulation adopted by the rulemaking authority, if adopting a policy or regulation is the method the rulemaking authority uses to adopt provisions that govern the applicable procurement unit.

[~~(77)~~] (76) "Rulemaking authority" means:

(a) for a legislative procurement unit, the Legislative Management Committee;

(b) for a judicial procurement unit, the Judicial Council;

(c) (i) only to the extent of the procurement authority expressly granted to the procurement unit by statute:

(A) for the facilities division, the facilities division;

(B) for the Office of the Attorney General, the attorney general;

(C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation; and

(D) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, the governing authority of the department, division, office, or entity; and

(ii) for each other executive branch procurement unit, the board;

(d) for a local government procurement unit:

(i) the governing body of the local government unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a school district or a public school, the board, except to the extent of a school district's own nonadministrative rules that do not conflict with the provisions of this chapter;

(f) for a state institution of higher education, the Utah Board of Higher Education;

(g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the State Board of Education;

(h) for a public transit district, the chief executive of the public transit district;

(i) for a [~~local~~] special district other than a public transit district or for a special service district, the board, except to the extent that the board of trustees of the [~~local~~] special district or the governing body of the special service district makes its own rules:

(i) with respect to a subject addressed by board rules; or

(ii) that are in addition to board rules;

(j) for the Utah Educational Savings Plan, created in Section 53B-8a-103, the Utah Board of Higher Education;

(k) for the School and Institutional Trust Lands Administration, created in Section 53C-1-201, the School and Institutional Trust Lands Board of Trustees;

(l) for the School and Institutional Trust Fund Office, created in Section 53D-1-201, the School and Institutional Trust Fund Board of Trustees;

(m) for the Utah Communications Authority, established in Section 63H-7a-201, the Utah Communications Authority board, created in Section 63H-7a-203; or

(n) for any other procurement unit, the board.

[~~(78)~~] (77) "Service":

(a) means labor, effort, or work to produce a result that is beneficial to a procurement unit;

(b) includes a professional service; and

(c) does not include labor, effort, or work provided under an employment agreement or a collective bargaining agreement.

[~~(79)~~] (78) "Small purchase process" means the procurement process described in Section 63G-6a-506.

[~~(80)~~] (79) "Sole source contract" means a contract resulting from a sole source procurement.

[~~(81)~~] (80) "Sole source procurement" means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(1)(a) that there is only one source for the procurement item.

[~~(82)~~] (81) "Solicitation" means an invitation for bids, request for proposals, or request for statement of qualifications.

[~~(83)~~] (82) "Solicitation response" means:

(a) a bid submitted in response to an invitation for bids;

(b) a proposal submitted in response to a request for proposals; or

(c) a statement of qualifications submitted in response to a request for statement of qualifications.

(83) "Special district" means the same as that term is defined in Section 17B-1-102.

(84) "Special service district" means the same as that term is defined in Section 17D-1-102.

(85) "Specification" means any description of the physical or functional characteristics or of the nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

(86) "Standard procurement process" means:

(a) the bidding process;

(b) the request for proposals process;

(c) the approved vendor list process;

(d) the small purchase process; or

(e) the design professional procurement process.

(87) "State cooperative contract" means a contract awarded by the division for and in behalf of all public entities.

(88) "Statement of qualifications" means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

(89) "Subcontractor":

(a) means a person under contract to perform part of a contractual obligation under the control of the contractor, whether the person's contract is with the contractor directly or with another person who is under contract to perform part of a contractual obligation under the control of the contractor; and

(b) includes a supplier, distributor, or other vendor that furnishes supplies or services to a contractor.

(90) "Technology" means the same as "information technology," as defined in Section 63A-16-102.

(91) "Tie bid" means that the lowest responsive bids of responsible bidders are identical in price.

(92) "Time and materials contract" means a contract under which the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor.

(93) "Transitional costs":

(a) means the costs of changing:

(i) from an existing provider of a procurement item to another provider of that

procurement item; or

(ii) from an existing type of procurement item to another type;

(b) includes:

(i) training costs;

(ii) conversion costs;

(iii) compatibility costs;

(iv) costs associated with system downtime;

(v) disruption of service costs;

(vi) staff time necessary to implement the change;

(vii) installation costs; and

(viii) ancillary software, hardware, equipment, or construction costs; and

(c) does not include:

(i) the costs of preparing for or engaging in a procurement process; or

(ii) contract negotiation or drafting costs.

(94) "Vendor":

(a) means a person who is seeking to enter into a contract with a procurement unit to provide a procurement item; and

(b) includes:

(i) a bidder;

(ii) an offeror;

(iii) an approved vendor;

(iv) a design professional; and

(v) a person who submits an unsolicited proposal under Section 63G-6a-712.

Section 119. Section **63G-6a-118** is amended to read:

63G-6a-118. Adoption of rule relating to the procurement of design professional services.

Each of the following shall adopt a rule relating to the procurement of design professional services, not inconsistent with the provisions of Part 15, Design Professional Services:

(1) an educational procurement unit;

(2) a conservation district;

(3) a local building authority;

(4) a [~~local~~] special district;

(5) a special service district; and

(6) a public corporation.

Section 120. Section **63G-6a-202** is amended to read:

63G-6a-202. Creation of Utah State Procurement Policy Board.

(1) There is created the Utah State Procurement Policy Board.

(2) The board consists of up to 15 members as follows:

(a) two representatives of state institutions of higher education, appointed by the Utah Board of Higher Education;

(b) a representative of the Department of Human Services, appointed by the executive director of that department;

(c) a representative of the Department of Transportation, appointed by the executive director of that department;

(d) two representatives of school districts, appointed by the State Board of Education;

(e) a representative of the Division of Facilities Construction and Management, appointed by the director of that division;

(f) one representative of a county, appointed by the Utah Association of Counties;

(g) one representative of a city or town, appointed by the Utah League of Cities and Towns;

(h) two representatives of [~~local~~] special districts or special service districts, appointed by the Utah Association of Special Districts;

(i) the director of the Division of Technology Services or the executive director's designee;

(j) the chief procurement officer or the chief procurement officer's designee; and

(k) two representatives of state agencies, other than a state agency already represented on the board, appointed by the executive director of the Department of Government Operations, with the approval of the executive director of the state agency that employs the employee.

(3) Members of the board shall be knowledgeable and experienced in, and have supervisory responsibility for, procurement in their official positions.

(4) A board member may serve as long as the member meets the description in Subsection (2) unless removed by the person or entity with the authority to appoint the board member.

(5) (a) The board shall:

(i) adopt rules of procedure for conducting its business; and

(ii) elect a chair to serve for one year.

(b) The chair of the board shall be selected by a majority of the members of the board and may be elected to succeeding terms.

(c) The chief procurement officer shall designate an employee of the division to serve as the nonvoting secretary to the policy board.

(6) A member of the board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

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

Section 121. Section **63G-6a-2402** is amended to read:

63G-6a-2402. Definitions.

As used in this part:

(1) "Contract administration professional":

(a) means an individual who:

(i) is:

(A) directly under contract with a procurement unit; or

(B) employed by a person under contract with a procurement unit; and

(ii) has responsibility in:

(A) developing a solicitation or grant, or conducting the procurement process; or

(B) supervising or overseeing the administration or management of a contract or grant; and

(b) does not include an employee of the procurement unit.

(2) "Contribution":

(a) means a voluntary gift or donation of money, service, or anything else of value, to a

public entity for the public entity's use and not for the primary use of an individual employed by the public entity; and

(b) includes:

(i) a philanthropic donation;

(ii) admission to a seminar, vendor fair, charitable event, fundraising event, or similar event that relates to the function of the public entity;

(iii) the purchase of a booth or other display space at an event sponsored by the public entity or a group of which the public entity is a member; and

(iv) the sponsorship of an event that is organized by the public entity.

(3) "Family member" means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

(4) "Governing body" means an administrative, advisory, executive, or legislative body of a public entity.

(5) "Gratuity":

(a) means anything of value given:

(i) without anything provided in exchange; or

(ii) in excess of the market value of that which is provided in exchange;

(b) includes:

(i) a gift or favor;

(ii) money;

(iii) a loan at an interest rate below the market rate or with terms that are more advantageous to the borrower than terms offered generally on the market;

(iv) anything of value provided with an award, other than a certificate, plaque, or trophy;

(v) employment;

(vi) admission to an event;

(vii) a meal, lodging, or travel;

(viii) entertainment for which a charge is normally made; and

(ix) a raffle, drawing for a prize, or lottery; and

(c) does not include:

(i) an item, including a meal in association with a training seminar, that is:

(A) included in a contract or grant; or

(B) provided in the proper performance of a requirement of a contract or grant;

(ii) an item requested to evaluate properly the award of a contract or grant;

(iii) a rebate, coupon, discount, airline travel award, dividend, or other offering included in the price of a procurement item;

(iv) a meal provided by an organization or association, including a professional or educational association, an association of vendors, or an association composed of public agencies or public entities, that does not, as an organization or association, respond to solicitations;

(v) a product sample submitted to a public entity to assist the public entity to evaluate a solicitation;

(vi) a political campaign contribution;

(vii) an item generally available to the public; or

(viii) anything of value that one public agency provides to another public agency.

(6) "Hospitality gift":

(a) means a token gift of minimal value, including a pen, pencil, stationery, toy, pin, trinket, snack, beverage, or appetizer, given for promotional or hospitality purposes; and

(b) does not include money, a meal, admission to an event for which a charge is normally made, entertainment for which a charge is normally made, travel, or lodging.

(7) "Kickback":

(a) means a negotiated bribe provided in connection with a procurement or the administration of a contract or grant; and

(b) does not include anything listed in Subsection (5)(c).

(8) "Procurement" has the same meaning as defined in Section 63G-6a-103, but also includes the awarding of a grant.

(9) "Procurement professional":

(a) means an individual who is an employee, and not an independent contractor, of a procurement unit, and who, by title or primary responsibility:

(i) has procurement decision making authority; and

(ii) is assigned to be engaged in, or is engaged in:

(A) the procurement process; or

(B) the process of administering a contract or grant, including enforcing contract or grant compliance, approving contract or grant payments, or approving contract or grant change orders or amendments; and

(b) excludes:

(i) any individual who, by title or primary responsibility, does not have procurement decision making authority;

(ii) an individual holding an elective office;

(iii) a member of a governing body;

(iv) a chief executive of a public entity or a chief assistant or deputy of the chief executive, if the chief executive, chief assistant, or deputy, respectively, has a variety of duties and responsibilities beyond the management of the procurement process or the contract or grant administration process;

(v) the superintendent, business administrator, principal, or vice principal of a school district or charter school, or the chief assistant or deputy of the superintendent, business administrator, principal, or vice principal;

(vi) a university or college president, vice president, business administrator, or dean;

(vii) a chief executive of a [~~local~~] special district, as defined in Section 17B-1-102, a special service district, as defined in Section 17D-1-102, or a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act;

(viii) an employee of a public entity with:

(A) an annual budget of $1,000,000 or less; or

(B) no more than four full-time employees; and

(ix) an executive director or director of an executive branch procurement unit who:

(A) by title or primary responsibility, does not have procurement decision making authority; and

(B) is not assigned to engage in, and is not engaged in, the procurement process.

(10) "Public agency" has the same meaning as defined in Section 11-13-103, but also includes all officials, employees, and official representatives of a public agency, as defined in Section 11-13-103.

Section 122. Section **63G-7-102** is amended to read:

63G-7-102. Definitions.

As used in this chapter:

(1) "Arises out of or in connection with, or results from," when used to describe the relationship between conduct or a condition and an injury, means that:

(a) there is some causal relationship between the conduct or condition and the injury;

(b) the causal relationship is more than any causal connection but less than proximate cause; and

(c) the causal relationship is sufficient to conclude that the injury originates with, flows from, or is incident to the conduct or condition.

(2) "Claim" means any asserted demand for or cause of action for money or damages, whether arising under the common law, under state constitutional provisions, or under state statutes, against a governmental entity or against an employee in the employee's personal capacity.

(3) (a) "Employee" includes:

(i) a governmental entity's officers, employees, servants, trustees, or commissioners;

(ii) a member of a governing body;

(iii) a member of a government entity board;

(iv) a member of a government entity commission;

(v) members of an advisory body, officers, and employees of a Children's Justice Center created in accordance with Section 67-5b-102;

(vi) a student holding a license issued by the State Board of Education;

(vii) an educational aide;

(viii) a student engaged in an internship under Section 53B-16-402 or 53G-7-902;

(ix) a volunteer, as defined in Section 67-20-2; and

(x) a tutor.

(b) "Employee" includes all of the positions identified in Subsection (3)(a), whether or not the individual holding that position receives compensation.

(c) "Employee" does not include an independent contractor.

(4) "Governmental entity" means:

(a) the state and its political subdivisions; and

(b) a law enforcement agency, as defined in Section 53-1-102, that employs one or

more law enforcement officers, as defined in Section 53-13-103.

(5) (a) "Governmental function" means each activity, undertaking, or operation of a governmental entity.

(b) "Governmental function" includes each activity, undertaking, or operation performed by a department, agency, employee, agent, or officer of a governmental entity.

(c) "Governmental function" includes a governmental entity's failure to act.

(6) "Injury" means death, injury to a person, damage to or loss of property, or any other injury that a person may suffer to the person or estate, that would be actionable if inflicted by a private person or the private person's agent.

(7) "Personal injury" means an injury of any kind other than property damage.

(8) "Political subdivision" means any county, city, town, school district, community reinvestment agency, special improvement or taxing district, [~~local~~] special district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(9) "Property damage" means injury to, or loss of, any right, title, estate, or interest in real or personal property.

(10) "State" means the state of Utah, and includes each office, department, division, agency, authority, commission, board, institution, hospital, college, university, Children's Justice Center, or other instrumentality of the state.

(11) "Willful misconduct" means the intentional doing of a wrongful act, or the wrongful failure to act, without just cause or excuse, where the actor is aware that the actor's conduct will probably result in injury.

Section 123. Section **63G-7-401** is amended to read:

63G-7-401. When a claim arises -- Notice of claim requirements -- Governmental entity statement -- Limits on challenging validity or timeliness of notice of claim.

(1) (a) Except as provided in Subsection (1)(b), a claim arises when the statute of limitations that would apply if the claim were against a private person begins to run.

(b) The statute of limitations does not begin to run until a claimant knew, or with the exercise of reasonable diligence should have known:

(i) that the claimant had a claim against the governmental entity or the governmental entity's employee; and

(ii) the identity of the governmental entity or the name of the employee.

(c) The burden to prove the exercise of reasonable diligence is upon the claimant.

(2) Any person having a claim against a governmental entity, or against the governmental entity's employee for an act or omission occurring during the performance of the employee's duties, within the scope of employment, or under color of authority shall file a written notice of claim with the entity before maintaining an action, regardless of whether or not the function giving rise to the claim is characterized as governmental.

(3) (a) The notice of claim shall set forth:

(i) a brief statement of the facts;

(ii) the nature of the claim asserted;

(iii) the damages incurred by the claimant so far as the damages are known; and

(iv) if the claim is being pursued against a governmental employee individually as provided in Subsection 63G-7-202(3)(c), the name of the employee.

(b) The notice of claim shall be:

(i) signed by the person making the claim or that person's agent, attorney, parent, or legal guardian, using any form of signature recognized by law as binding; and

(ii) delivered, transmitted, or sent, as provided in Subsection (3)(c), to the office of:

(A) the city or town clerk, when the claim is against an incorporated city or town;

(B) the county clerk, when the claim is against a county;

(C) the superintendent or business administrator of the board, when the claim is against a school district or board of education;

(D) the presiding officer or secretary or clerk of the board, when the claim is against a [~~local~~] special district or special service district;

(E) the attorney general, when the claim is against the state;

(F) a member of the governing board, the executive director, or executive secretary, when the claim is against any other public board, commission, or body; or

(G) the agent authorized by a governmental entity to receive the notice of claim by the governmental entity under Subsection (5)(e).

(c) A notice of claim shall be:

(i) delivered by hand to the physical address provided under Subsection (5)(a)(iii)(A);

(ii) transmitted by mail to the physical address provided under Subsection

(5)(a)(iii)(A), according to the requirements of Section 68-3-8.5; or

(iii) sent by electronic mail to the email address provided under Subsection (5)(a)(iii)(B).

(d) A claimant who submits a notice of claim by electronic mail under Subsection (3)(c)(iii) shall contemporaneously send a copy of the notice of claim by electronic mail to the city attorney, district attorney, county attorney, attorney general, or other attorney, as the case may be, who represents the governmental entity.

(4) (a) If an injury that may reasonably be expected to result in a claim against a governmental entity is sustained by a claimant who is under the age of majority or mentally incompetent, that governmental entity may file a request with the court for the appointment of a guardian ad litem for the potential claimant.

(b) If a guardian ad litem is appointed, the time for filing a claim under Section 63G-7-402 begins when the order appointing the guardian ad litem is issued.

(5) (a) A governmental entity subject to suit under this chapter shall file a statement with the Division of Corporations and Commercial Code within the Department of Commerce containing:

(i) the name and address of the governmental entity;

(ii) the office or agent designated to receive a notice of claim; and

(iii) (A) the physical address to which a notice of claim is to be delivered by hand or transmitted by mail, for a notice of claim that a claimant chooses to hand deliver or transmit by mail; and

(B) the email address to which a notice of claim is to be sent, for a notice of claim that a claimant chooses to send by email, and the email address of the city attorney, district attorney, county attorney, attorney general, or other attorney, as the case may be, who represents the governmental entity.

(b) A governmental entity shall update the governmental entity's statement as necessary to ensure that the information is accurate.

(c) The Division of Corporations and Commercial Code shall develop a form for governmental entities to complete that provides the information required by Subsection (5)(a).

(d) (i) A newly incorporated municipality shall file the statement required by Subsection (5)(a) promptly after the lieutenant governor issues a certificate of incorporation

under Section 67-1a-6.5.

(ii) A newly incorporated [~~local~~] special district shall file the statement required by Subsection (5)(a) at the time that the written notice is filed with the lieutenant governor under Section 17B-1-215.

(e) A governmental entity may, in the governmental entity's statement, identify an agent authorized to accept notices of claim on behalf of the governmental entity.

(6) The Division of Corporations and Commercial Code shall:

(a) maintain an index of the statements required by this section arranged both alphabetically by entity and by county of operation; and

(b) make the indices available to the public both electronically and via hard copy.

(7) A governmental entity may not challenge the validity of a notice of claim on the grounds that it was not directed and delivered to the proper office or agent if the error is caused by the governmental entity's failure to file or update the statement required by Subsection (5).

(8) A governmental entity may not challenge the timeliness, under Section 63G-7-402, of a notice of claim if:

(a) (i) the claimant files a notice of claim with the governmental entity:

(A) in accordance with the requirements of this section; and

(B) within 30 days after the expiration of the time for filing a notice of claim under Section 63G-7-402;

(ii) the claimant demonstrates that the claimant previously filed a notice of claim:

(A) in accordance with the requirements of this section;

(B) with an incorrect governmental entity;

(C) in the good faith belief that the claimant was filing the notice of claim with the correct governmental entity;

(D) within the time for filing a notice of claim under Section 63G-7-402; and

(E) no earlier than 30 days before the expiration of the time for filing a notice of claim under Section 63G-7-402; and

(iii) the claimant submits with the notice of claim:

(A) a copy of the previous notice of claim that was filed with a governmental entity other than the correct governmental entity; and

(B) proof of the date the previous notice of claim was filed; or

(b) (i) the claimant delivers by hand, transmits by mail, or sends by email a notice of claim:

(A) to an elected official or executive officer of the correct governmental entity but not to the correct office under Subsection (3)(b)(ii); and

(B) that otherwise meets the requirements of Subsection (3); and

(ii) (A) the claimant contemporaneously sends a hard copy or electronic copy of the notice of claim to the office of the city attorney, district attorney, county attorney, attorney general, or other attorney, as the case may be, representing the correct governmental entity; or

(B) the governmental entity does not, within 60 days after the claimant delivers the notice of claim under Subsection (8)(b)(i), provide written notification to the claimant of the delivery defect and of the identity of the correct office to which the claimant is required to deliver the notice of claim.

Section 124. Section **63G-9-201** is amended to read:

63G-9-201. Members -- Functions.

(1) As used in this chapter:

(a) "Political subdivision" means any county, city, town, school district, community reinvestment agency, special improvement or taxing district, [~~local~~] special district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(b) "State" means the state of Utah, and includes each office, department, division, agency, authority, commission, board, institution, college, university, Children's Justice Center, or other instrumentality of the state.

(2) The governor, the state auditor, and the attorney general shall constitute a Board of Examiners, with power to examine all claims against the state or a political subdivision, for the payment of which funds appropriated by the Legislature or derived from any other source are not available.

(3) No claim against the state or a political subdivision, for the payment of which specifically designated funds are required to be appropriated by the Legislature shall be passed upon by the Legislature without having been considered and acted upon by the Board of Examiners.

(4) The governor shall be the president, and the state auditor shall be the secretary of

the board, and in the absence of either an officer pro tempore may be elected from among the members of the board.

Section 125. Section **63G-12-102** is amended to read:

63G-12-102. Definitions.

As used in this chapter:

(1) "Basic health insurance plan" means a health plan that is actuarially equivalent to a federally qualified high deductible health plan.

(2) "Department" means the Department of Public Safety created in Section 53-1-103.

(3) "Employee" means an individual employed by an employer under a contract for hire.

(4) "Employer" means a person who has one or more employees employed in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written.

(5) "E-verify program" means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, 8 U.S.C. Sec. 1324a, known as the e-verify program.

(6) "Family member" means for an undocumented individual:

(a) a member of the undocumented individual's immediate family;

(b) the undocumented individual's grandparent;

(c) the undocumented individual's sibling;

(d) the undocumented individual's grandchild;

(e) the undocumented individual's nephew;

(f) the undocumented individual's niece;

(g) a spouse of an individual described in this Subsection (6); or

(h) an individual who is similar to one listed in this Subsection (6).

(7) "Federal SAVE program" means the Systematic Alien Verification for Entitlements Program operated by the United States Department of Homeland Security or an equivalent program designated by the Department of Homeland Security.

(8) "Guest worker" means an undocumented individual who holds a guest worker permit.

(9) "Guest worker permit" means a permit issued in accordance with Section

63G-12-207 to an undocumented individual who meets the eligibility criteria of Section 63G-12-205.

(10) "Immediate family" means for an undocumented individual:

(a) the undocumented individual's spouse; or

(b) a child of the undocumented individual if the child is:

(i) under 21 years old; and

(ii) unmarried.

(11) "Immediate family permit" means a permit issued in accordance with Section 63G-12-207 to an undocumented individual who meets the eligibility criteria of Section 63G-12-206.

(12) "Permit" means a permit issued under Part 2, Guest Worker Program, and includes:

(a) a guest worker permit; and

(b) an immediate family permit.

(13) "Permit holder" means an undocumented individual who holds a permit.

(14) "Private employer" means an employer who is not the federal government or a public employer.

(15) "Program" means the Guest Worker Program described in Section 63G-12-201.

(16) "Program start date" means the day on which the department is required to implement the program under Subsection 63G-12-202(3).

(17) "Public employer" means an employer that is:

(a) the state of Utah or any administrative subunit of the state;

(b) a state institution of higher education, as defined in Section 53B-3-102;

(c) a political subdivision of the state including a county, city, town, school district, [~~local~~] special district, or special service district; or

(d) an administrative subunit of a political subdivision.

(18) "Relevant contact information" means the following for an undocumented individual:

(a) the undocumented individual's name;

(b) the undocumented individual's residential address;

(c) the undocumented individual's residential telephone number;

(d) the undocumented individual's personal email address;

(e) the name of the person with whom the undocumented individual has a contract for hire;

(f) the name of the contact person for the person listed in Subsection (18)(e);

(g) the address of the person listed in Subsection (18)(e);

(h) the telephone number for the person listed in Subsection (18)(e);

(i) the names of the undocumented individual's immediate family members;

(j) the names of the family members who reside with the undocumented individual; and

(k) any other information required by the department by rule made in accordance with Chapter 3, Utah Administrative Rulemaking Act.

(19) "Restricted account" means the Immigration Act Restricted Account created in Section 63G-12-103.

(20) "Serious felony" means a felony under:

(a) Title 76, Chapter 5, Offenses Against the Individual;

(b) Title 76, Chapter 5b, Sexual Exploitation Act;

(c) Title 76, Chapter 6, Offenses Against Property;

(d) Title 76, Chapter 7, Offenses Against the Family;

(e) Title 76, Chapter 8, Offenses Against the Administration of Government;

(f) Title 76, Chapter 9, Offenses Against Public Order and Decency; and

(g) Title 76, Chapter 10, Offenses Against Public Health, Safety, Welfare, and Morals.

(21) (a) "Status verification system" means an electronic system operated by the federal government, through which an authorized official of a state agency or a political subdivision of the state may inquire by exercise of authority delegated pursuant to 8 U.S.C. Sec. 1373, to verify the citizenship or immigration status of an individual within the jurisdiction of the agency or political subdivision for a purpose authorized under this section.

(b) "Status verification system" includes:

(i) the e-verify program;

(ii) an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986;

(iii) the Social Security Number Verification Service or similar online verification process implemented by the United States Social Security Administration; or

(iv) an independent third-party system with an equal or higher degree of reliability as the programs, systems, or processes described in Subsection (21)(b)(i), (ii), or (iii).

(22) "Unauthorized alien" is as defined in 8 U.S.C. Sec. 1324a(h)(3).

(23) "Undocumented individual" means an individual who:

(a) lives or works in the state; and

(b) is not in compliance with the Immigration and Nationality Act, 8 U.S.C. Sec. 1101 et seq. with regard to presence in the United States.

(24) "U-verify program" means the verification procedure developed by the department in accordance with Section 63G-12-210.

Section 126. Section **63G-22-102** is amended to read:

63G-22-102. Definitions.

As used in this chapter:

(1) "Political subdivision" means:

(a) a county;

(b) a municipality, as defined in Section 10-1-104;

(c) a [~~local~~] special district;

(d) a special service district;

(e) an interlocal entity, as defined in Section 11-13-103;

(f) a community reinvestment agency;

(g) a local building authority; or

(h) a conservation district.

(2) (a) "Public employee" means any individual employed by or volunteering for a state agency or a political subdivision who is not a public official.

(b) "Public employee" does not include an individual employed by or volunteering for a taxed interlocal entity.

(3) (a) "Public official" means:

(i) an appointed official or an elected official as those terms are defined in Section 63A-17-502; or

(ii) an individual elected or appointed to a county office, municipal office, school

board or school district office, [~~local~~] special district office, or special service district office.

(b) "Public official" does not include an appointed or elected official of a taxed interlocal entity.

(4) "State agency" means a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government.

(5) "Taxed interlocal entity" means the same as that term is defined in Section 11-13-602.

Section 127. Section **63G-26-102** is amended to read:

63G-26-102. Definitions.

As used in this chapter:

(1) "Personal information" means a record or other compilation of data that identifies a person as a donor to an entity exempt from federal income tax under Section 501(c) of the Internal Revenue Code.

(2) "Public agency" means a state or local government entity, including:

(a) a department, division, agency, office, commission, board, or other government organization;

(b) a political subdivision, including a county, city, town, metro township, [~~local~~] special district, or special service district;

(c) a public school, school district, charter school, or public higher education institution; or

(d) a judicial or quasi-judicial body.

Section 128. Section **63H-1-102** is amended to read:

63H-1-102. Definitions.

As used in this chapter:

(1) "Authority" means the Military Installation Development Authority, created under Section 63H-1-201.

(2) "Base taxable value" means:

(a) for military land or other land that was exempt from a property tax at the time that a project area was created that included the military land or other land, a taxable value of zero; or

(b) for private property that is included in a project area, the taxable value of the property within any portion of the project area, as designated by board resolution, from which

the property tax allocation will be collected, as shown upon the assessment roll last equalized:

(i) before the year in which the authority creates the project area; or

(ii) before the year in which the project area plan is amended, for property added to a project area by an amendment to a project area plan.

(3) "Board" means the governing body of the authority created under Section 63H-1-301.

(4) (a) "Dedicated tax collections" means the property tax that remains after the authority is paid the property tax allocation the authority is entitled to receive under Subsection 63H-1-501(1), for a property tax levied by:

(i) a county, including a district the county has established under Subsection 17-34-3(2) to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas; or

(ii) an included municipality.

(b) "Dedicated tax collections" does not include a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602.

(5) "Develop" means to engage in development.

(6) (a) "Development" means an activity occurring:

(i) on land within a project area that is owned or operated by the military, the authority, another public entity, or a private entity; or

(ii) on military land associated with a project area.

(b) "Development" includes the demolition, construction, reconstruction, modification, expansion, maintenance, operation, or improvement of a building, facility, utility, landscape, parking lot, park, trail, or recreational amenity.

(7) "Development project" means a project to develop land within a project area.

(8) "Elected member" means a member of the authority board who:

(a) is a mayor or member of a legislative body appointed under Subsection 63H-1-302(2)(b); or

(b) (i) is appointed to the authority board under Subsection 63H-1-302(2)(a) or (3); and

(ii) concurrently serves in an elected state, county, or municipal office.

(9) "Included municipality" means a municipality, some or all of which is included within a project area.

(10) (a) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.

(b) "Military" includes, in relation to property, property that is occupied by the military and is owned by the government of the United States or the state.

(11) "Military Installation Development Authority accommodations tax" or "MIDA accommodations tax" means the tax imposed under Section 63H-1-205.

(12) "Military Installation Development Authority energy tax" or "MIDA energy tax" means the tax levied under Section 63H-1-204.

(13) "Military land" means land or a facility, including leased land or a leased facility, that is part of or affiliated with a base, camp, post, station, yard, center, or installation under the jurisdiction of the United States Department of Defense, the United States Department of Veterans Affairs, or the Utah National Guard.

(14) "Municipal energy tax" means a municipal energy sales and use tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

(15) "Municipal services revenue" means revenue that the authority:

(a) collects from the authority's:

(i) levy of a municipal energy tax;

(ii) levy of a MIDA energy tax;

(iii) levy of a telecommunications tax;

(iv) imposition of a transient room tax; and

(v) imposition of a resort communities tax;

(b) receives under Subsection 59-12-205(2)(a)(ii)(B); and

(c) receives as dedicated tax collections.

(16) "Municipal tax" means a municipal energy tax, MIDA energy tax, MIDA accommodations tax, telecommunications tax, transient room tax, or resort communities tax.

(17) "Project area" means the land, including military land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

(18) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area that includes:

(a) the base taxable value of property in the project area;

(b) the projected property tax allocation expected to be generated within the project area;

(c) the amount of the property tax allocation expected to be shared with other taxing entities;

(d) the amount of the property tax allocation expected to be used to implement the project area plan, including the estimated amount of the property tax allocation to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;

(e) the property tax allocation expected to be used to cover the cost of administering the project area plan;

(f) if the property tax allocation is to be collected at different times or from different portions of the project area, or both:

(i) (A) the tax identification numbers of the parcels from which the property tax allocation will be collected; or

(B) a legal description of the portion of the project area from which the property tax allocation will be collected; and

(ii) an estimate of when other portions of the project area will become subject to collection of the property tax allocation; and

(g) for property that the authority owns or leases and expects to sell or sublease, the expected total cost of the property to the authority and the expected selling price or lease payments.

(19) "Project area plan" means a written plan that, after the plan's effective date, guides and controls the development within a project area.

(20) (a) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax, except as described in Subsection (20)(b), and each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) "Property tax" does not include a privilege tax on the taxable value:

(i) attributable to a portion of a facility leased to the military for a calendar year when:

(A) a lessee of military land has constructed a facility on the military land that is part of a project area;

(B) the lessee leases space in the facility to the military for the entire calendar year; and

(C) the lease rate paid by the military for the space is $1 or less for the entire calendar year, not including any common charges that are reimbursements for actual expenses; or

(ii) of the following property owned by the authority, regardless of whether the authority enters into a long-term operating agreement with a privately owned entity under which the privately owned entity agrees to operate the property:

(A) a hotel;

(B) a hotel condominium unit in a condominium project, as defined in Section 57-8-3; and

(C) a commercial condominium unit in a condominium project, as defined in Section 57-8-3.

(21) "Property tax allocation" means the difference between:

(a) the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which the property tax allocation is to be collected, using the current assessed value of the property; and

(b) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.

(22) "Public entity" means:

(a) the state, including each department or agency of the state; or

(b) a political subdivision of the state, including the authority or a county, city, town, school district, [~~local~~] special district, special service district, or interlocal cooperation entity.

(23) (a) " Public infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public, the authority, the military, or military-related entities; and

(ii) (A) are publicly owned by the military, the authority, a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, or another public entity;

(B) are owned by a utility; or

(C) are publicly maintained or operated by the military, the authority, or another public entity.

(b) "Public infrastructure and improvements" also means infrastructure, improvements,

facilities, or buildings that:

(i) are privately owned; and

(ii) provide a substantial benefit, as determined by the board, to the development and operation of a project area.

(c) "Public infrastructure and improvements" includes:

(i) facilities, lines, or systems that harness geothermal energy or provide water, chilled water, steam, sewer, storm drainage, natural gas, electricity, or telecommunications;

(ii) streets, roads, curb, gutter, sidewalk, walkways, tunnels, solid waste facilities, parking facilities, public transportation facilities, and parks, trails, and other recreational facilities;

(iii) snowmaking equipment and related improvements that can also be used for water storage or fire suppression purposes; and

(iv) a building and related improvements for occupancy by the public, the authority, the military, or military-related entities.

(24) "Remaining municipal services revenue" means municipal services revenue that the authority has not:

(a) spent during the authority's fiscal year for municipal services as provided in Subsection 63H-1-503(1); or

(b) redirected to use in accordance with Subsection 63H-1-502(3).

(25) "Resort communities tax" means a sales and use tax imposed under Section 59-12-401.

(26) "Taxable value" means the value of property as shown on the last equalized assessment roll.

(27) "Taxing entity":

(a) means a public entity that levies a tax on property within a project area; and

(b) does not include a public infrastructure district that the authority creates under Title 17D, Chapter 4, Public Infrastructure District Act.

(28) "Telecommunications tax" means a telecommunications license tax under Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

(29) "Transient room tax" means a tax under Section 59-12-352.

Section 129. Section **63H-1-202** is amended to read:

63H-1-202. Applicability of other law.

(1) As used in this section:

(a) "Subsidiary" means an authority subsidiary that is a public body as defined in Section 52-4-103.

(b) "Subsidiary board" means the governing body of a subsidiary.

(2) The authority or land within a project area is not subject to:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;

(b) Title 17, Chapter 27a, County Land Use, Development, and Management Act;

(c) ordinances or regulations of a county or municipality, including those relating to land use, health, business license, or franchise; or

(d) the jurisdiction of a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

(3) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(4) (a) The definitions in Section 57-8-3 apply to this Subsection (4).

(b) Notwithstanding the provisions of Title 57, Chapter 8, Condominium Ownership Act, or any other provision of law:

(i) if the military is the owner of land in a project area on which a condominium project is constructed, the military is not required to sign, execute, or record a declaration of a condominium project; and

(ii) if a condominium unit in a project area is owned by the military or owned by the authority and leased to the military for $1 or less per calendar year, not including any common charges that are reimbursements for actual expenses:

(A) the condominium unit is not subject to any liens under Title 57, Chapter 8, Condominium Ownership Act;

(B) condominium unit owners within the same building or commercial condominium project may agree on any method of allocation and payment of common area expenses, regardless of the size or par value of each unit; and

(C) the condominium project may not be dissolved without the consent of all the condominium unit owners.

(5) Notwithstanding any other provision, when a law requires the consent of a local government, the authority is the consenting entity for a project area.

(6) (a) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the authority requests that is reasonably necessary to help the authority fulfill the authority's duties and responsibilities under this chapter.

(b) Subsection (6)(a) does not apply to a political subdivision that does not have any of a project area located within the boundary of the political subdivision.

(7) (a) The authority and a subsidiary are subject to Title 52, Chapter 4, Open and Public Meetings Act, except that:

(i) notwithstanding Section 52-4-104, the timing and nature of training to authority board members or subsidiary board members on the requirements of Title 52, Chapter 4, Open and Public Meetings Act, may be determined by:

(A) the board chair, for the authority board; or

(B) the subsidiary board chair, for a subsidiary board;

(ii) authority staff may adopt a rule governing the use of electronic meetings under Section 52-4-207, if, under Subsection 63H-1-301(3), the board delegates to authority staff the power to adopt the rule; and

(iii) for an electronic meeting of the authority board or subsidiary board that otherwise complies with Section 52-4-207, the authority board or subsidiary board, respectively:

(A) is not required to establish an anchor location; and

(B) may convene and conduct the meeting without the written determination otherwise required under Subsection 52-4-207(4).

(b) Except as provided in Subsection (7)(c), the authority is not required to physically post notice notwithstanding any other provision of law.

(c) The authority shall physically post notice in accordance with Subsection 52-4-202(3)(a)(i).

(8) The authority and a subsidiary are subject to Title 63G, Chapter 2, Government Records Access and Management Act, except that:

(a) notwithstanding Section 63G-2-701:

(i) the authority may establish an appeals board consisting of at least three members;

(ii) an appeals board established under Subsection (8)(a)(i) shall include:

(A) one of the authority board members appointed by the governor;

(B) the authority board member appointed by the president of the Senate; and

(C) the authority board member appointed by the speaker of the House of Representatives; and

(iii) an appeal of a decision of an appeals board is to district court, as provided in Section 63G-2-404, except that the State Records Committee is not a party; and

(b) a record created or retained by the authority or a subsidiary acting in the role of a facilitator under Subsection 63H-1-201(3)(v) is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The authority or a subsidiary acting in the role of a facilitator under Subsection 63H-1-201(3)(v) is not prohibited from receiving a benefit from a public-private partnership that results from the facilitator's work as a facilitator.

(10) (a) (i) A subsidiary created as a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, may, subject to limitations of Title 17D, Chapter 4, Public Infrastructure District Act, levy a property tax for the operations and maintenance of the public infrastructure district's financed infrastructure and related improvements, subject to a maximum rate of .015.

(ii) A levy under Subsection (10)(a)(i) may be separate from a public infrastructure district property tax levy for a bond.

(b) If a subsidiary created as a public infrastructure district issues a bond:

(i) the subsidiary may:

(A) delay the effective date of the property tax levy for the bond until after the period of capitalized interest payments; and

(B) covenant with bondholders not to reduce or impair the property tax levy; and

(ii) notwithstanding a provision to the contrary in Title 17D, Chapter 4, Public Infrastructure District Act, the tax rate for the property tax levy for the bond may not exceed a rate that generates more revenue than required to pay the annual debt service of the bond plus administrative costs, subject to a maximum of .02.

(c) (i) A subsidiary created as a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, may create tax areas, as defined in Section 59-2-102, within the public infrastructure district and apply a different property tax rate to each tax area, subject to the maximum rate limitations described in Subsections (10)(a)(i) and (10)(b)(ii).

(ii) If a subsidiary created by a public infrastructure district issues bonds, the subsidiary may issue bonds secured by property taxes from:

(A) the entire public infrastructure district; or

(B) one or more tax areas within the public infrastructure district.

(11) (a) Terms defined in Section 57-11-2 apply to this Subsection (11).

(b) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act, does not apply to an offer or disposition of an interest in land if the interest in land lies within the boundaries of the project area and the authority:

(i) (A) has a development review committee using at least one professional planner;

(B) enacts standards and guidelines that require approval of planning, land use, and plats, including the approval of plans for streets, culinary water, sanitary sewer, and flood control; and

(C) will have the improvements described in Subsection (11)(b)(i)(B) plus telecommunications and electricity; and

(ii) if at the time of the offer or disposition, the subdivider furnishes satisfactory assurance of completion of the improvements described in Subsection (11)(b)(i)(C).

(12) (a) As used in this Subsection (12), "officer" means the same as an officer within the meaning of the Utah Constitution, Article IV, Section 10.

(b) An official act of an officer may not be invalidated for the reason that the officer failed to take the oath of office.

Section 130. Section **63I-5-102** is amended to read:

63I-5-102. Definitions.

As used in this chapter:

(1) "Agency governing board" is any board or commission that has policy making and oversight responsibility over the agency, including the authority to appoint and remove the agency director.

(2) "Agency head" means a cabinet officer, an elected official, an executive director, or

a board or commission vested with responsibility to administer or make policy for a state agency.

(3) "Agency internal audit director" or "audit director" means the person who:

(a) directs the internal audit program for the state agency; and

(b) is appointed by the audit committee or, if no audit committee has been established, by the agency head.

(4) "Appointing authority" means:

(a) the governor, for state agencies other than the State Tax Commission;

(b) the Judicial Council, for judicial branch agencies;

(c) the Utah Board of Higher Education, for higher education entities;

(d) the State Board of Education, for entities administered by the State Board of Education; or

(e) the four tax commissioners, for the State Tax Commission.

(5) "Audit committee" means a standing committee composed of members who:

(a) are appointed by an appointing authority;

(b) (i) do not have administrative responsibilities within the agency; and

(ii) are not an agency contractor or other service provider; and

(c) have the expertise to provide effective oversight of and advice about internal audit activities and services.

(6) "Audit plan" means a prioritized list of audits to be performed by an internal audit program within a specified period of time.

(7) "Higher education entity" means the Utah Board of Higher Education, an institution of higher education board of trustees, or each higher education institution.

(8) "Internal audit" means an independent appraisal activity established within a state agency as a control system to examine and evaluate the adequacy and effectiveness of other internal control systems within the agency.

(9) "Internal audit program" means an audit function that:

(a) is conducted by an agency, division, bureau, or office, independent of the agency, division, bureau, or office operations;

(b) objectively evaluates the effectiveness of agency, division, bureau, or office governance, risk management, internal controls, and the efficiency of operations; and

(c) is conducted in accordance with the current:

(i) International Standards for the Professional Practice of Internal Auditing; or

(ii) The Government Auditing Standards, issued by the Comptroller General of the United States.

(10) "Judicial branch agency" means each administrative entity of the judicial branch.

(11) (a) "State agency" means:

(i) each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state; or

(ii) each state public education entity.

(b) "State agency" does not mean:

(i) a legislative branch agency;

(ii) an independent state agency as defined in Section 63E-1-102;

(iii) a county, municipality, school district, [~~local~~] special district, or special service district; or

(iv) any administrative subdivision of a county, municipality, school district, [~~local~~] special district, or special service district.

Section 131. Section **63J-1-220** is amended to read:

63J-1-220. Reporting related to pass through money distributed by state agencies.

(1) As used in this section:

(a) "Local government entity" means a county, municipality, school district, [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, special service district under Title 17D, Chapter 1, Special Service District Act, or any other political subdivision of the state.

(b) (i) "Pass through funding" means money appropriated by the Legislature to a state agency that is intended to be passed through the state agency to one or more:

(A) local government entities;

(B) private organizations, including not-for-profit organizations; or

(C) persons in the form of a loan or grant.

(ii) "Pass through funding" may be:

(A) general funds, dedicated credits, or any combination of state funding sources; and

(B) ongoing or one-time.

(c) "Recipient entity" means a local government entity or private entity, including a nonprofit entity, that receives money by way of pass through funding from a state agency.

(d) "State agency" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the executive branch of the state.

(e) (i) "State money" means money that is owned, held, or administered by a state agency and derived from state fees or tax revenues.

(ii) "State money" does not include contributions or donations received by a state agency.

(2) A state agency may not provide a recipient entity state money through pass through funding unless:

(a) the state agency enters into a written agreement with the recipient entity; and

(b) the written agreement described in Subsection (2)(a) requires the recipient entity to provide the state agency:

(i) a written description and an itemized report at least annually detailing the expenditure of the state money, or the intended expenditure of any state money that has not been spent; and

(ii) a final written itemized report when all the state money is spent.

(3) A state agency shall provide to the Governor's Office of Planning and Budget a copy of a written description or itemized report received by the state agency under Subsection (2).

(4) Notwithstanding Subsection (2), a state agency is not required to comply with this section to the extent that the pass through funding is issued:

(a) under a competitive award process;

(b) in accordance with a formula enacted in statute;

(c) in accordance with a state program under parameters in statute or rule that guides the distribution of the pass through funding; or

(d) under the authority of the Minimum School Program, as defined in Section

53F-2-102.

Section 132. Section **63J-4-102** is amended to read:

63J-4-102. Definitions.

As used in this chapter:

(1) "Executive director" means the chief administrative officer of the office, appointed under Section 63J-4-202.

(2) "Office" means the Governor's Office of Planning and Budget created in Section 63J-4-201.

(3) "Planning coordinator" means the individual appointed as the planning coordinator under Section 63J-4-401.

(4) "Political subdivision" means:

(a) a county, municipality, [~~local~~] special district, special service district, school district, or interlocal entity, as defined in Section 11-13-103; or

(b) an administrative subunit of an entity listed in Subsection (4)(a).

Section 133. Section **63J-4-801** is amended to read:

63J-4-801. Definitions.

As used in this part:

(1) "American Rescue Plan Act" means the American Rescue Plan Act, Pub. L. 117-2.

(2) "COVID-19" means:

(a) severe acute respiratory syndrome coronavirus 2; or

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

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

(4) "Grant program" means the COVID-19 Local Assistance Matching Grant Program established in Section 63J-4-802.

(5) "Local government" means a county, city, town, metro township, [~~local~~] special district, or special service district.

(6) "Review committee" means the COVID-19 Local Assistance Matching Grant Program Review Committee established in Section 63J-4-803.

Section 134. Section **63L-4-102** is amended to read:

63L-4-102. Definitions.

As used in this chapter:

(1) "Constitutional taking issues" means actions involving the physical taking or ~~{exaction}~~exaction of private real property by a political subdivision that might require compensation to a private real property owner because of:

(a) the Fifth or Fourteenth Amendment of the Constitution of the United States;

(b) ~~{[}~~Article I, Section 22 of the Utah Constitution~~{] Utah Constitution, Article I, Section 22}~~; or

(c) any recent court rulings governing the physical taking or exaction of private real property by a government entity.

(2) "Political subdivision" means a county, municipality, [~~local~~] special district, special service district, school district, or other local government entity.

Section 135. Section **63L-5-102** is amended to read:

63L-5-102. Definitions.

As used in this chapter:

(1) "Free exercise of religion" means an act or refusal to act that is substantially motivated by sincere religious belief, whether or not the act or refusal is compulsory or central to a larger system of religious belief, and includes the use, building, or conversion of real property for the purpose of religious exercise.

(2) "Government entity" means the state, a county, a municipality, a higher education institution, a [~~local~~] special district, a special service district, any other political subdivision of the state, or any administrative subunit of any of them.

(3) "Land use regulation" means any state or local law or ordinance, whether statutory or otherwise, that limits or restricts a person's use or development of land or a structure affixed to land.

(4) "Person" means any individual, partnership, corporation, or other legal entity that owns an interest in real property.

Section 136. Section **63L-11-102** is amended to read:

63L-11-102. Definitions.

As used in this chapter:

(1) "Coordinating committee" means the committee created in Section 63L-11-401.

(2) "Executive director" means the public lands policy executive director appointed

under Section 63L-11-201.

(3) "Office" means the Public Lands Policy Coordinating Office created in Section 63L-11-201.

(4) "Political subdivision" means:

(a) a county, municipality, [~~local~~] special district, special service district, school district, or interlocal entity, as defined in Section 11-13-103; or

(b) an administrative subunit of an entity listed in Subsection (4)(a).

Section 137. Section **63M-5-103** is amended to read:

63M-5-103. Definitions.

As used in this chapter:

(1) "Commencement of construction" means any clearing of land, excavation, or construction but does not include preliminary site review, including soil tests, topographical surveys, exploratory drilling, boring or mining, or other preliminary tests.

(2) "Developer" means any person engaged or to be engaged in industrial development or the development or utilization of natural resources in this state through a natural resource or industrial facility, including owners, contract purchases of owners, and persons who, as a lessee or under an agreement, are engaged or to be engaged in industrial development or the development or utilization of natural resources in this state through a natural resource or industrial facility.

(3) "Major developer" means any developer whose proposed new or additional natural resource facility or industrial facility is projected:

(a) To employ more than 500 people; or

(b) To cause the population of an affected unit of local government to increase by more than 5%, the increase to include the primary work force of the facility and their dependents and the work force and dependents attributable to commercial and public service employment created by the presence of the facility.

(4) "Natural resource facility" or "industrial facility" means any land, structure, building, plant, mine, road, installation, excavation, machinery, equipment, or device, or any addition to, reconstruction, replacement, or improvement of, land or an existing structure, building, plant, mine, road, installation, excavation, machinery, or device reasonably used, erected, constructed, acquired, or installed by any person, if a substantial purpose of or result of

the use, erection, construction, acquisition, rental, lease, or installation is related to industrial development or the development or utilization of the natural resources in this state.

(5) "Person" includes any individual, firm, co-partnership, joint venture, corporation, estate, trust, business trust, syndicate, or any group or combination acting as a unit.

(6) "Unit of local government" means any county, municipality, school district, [~~local~~] special district, special service district, or any other political subdivision of the state.

Section 138. Section **65A-8-203** is amended to read:

65A-8-203. Cooperative fire protection agreements with counties, cities, towns, or special service districts.

(1) As used in this section:

(a) "Eligible entity" means:

(i) a county, a municipality, or a special service district, [~~local~~] special district, or service area with:

(A) wildland fire suppression responsibility as described in Section 11-7-1; and

(B) wildland fire suppression cost responsibility and taxing authority for a specific geographic jurisdiction; or

(ii) upon approval by the director, a political subdivision established by a county, municipality, special service district, [~~local~~] special district, or service area that is responsible for:

(A) providing wildland fire suppression services; and

(B) paying for the cost of wildland fire suppression services.

(b) "Fire service provider" means a public or private entity that fulfills the duties of Subsection 11-7-1(1).

(2) (a) The governing body of any eligible entity may enter into a cooperative agreement with the division to receive financial and wildfire management cooperation and assistance from the division, as described in this part.

(b) A cooperative agreement shall last for a term of no more than five years and be renewable if the eligible entity continues to meet the requirements of this chapter.

(3) (a) An eligible entity may not receive financial cooperation or financial assistance under Subsection (2)(a) until a cooperative agreement is executed by the eligible entity and the division.

(b) The state shall assume an eligible entity's cost of suppressing catastrophic wildfire as defined in the cooperative agreement if the eligible entity has entered into, and is in full compliance with, a cooperative agreement with the division, as described in this section.

(c) A county or municipality that is not covered by a cooperative agreement with the division, as described in this section, shall be responsible for wildland fire costs within the county or municipality's jurisdiction, as described in Section 65A-8-203.2.

(4) In order to enter into a cooperative agreement with the division, the eligible entity shall:

(a) if the eligible entity is a county, adopt and enforce on unincorporated land a wildland fire ordinance based upon minimum standards established by the division or Uniform Building Code Commission;

(b) require that the fire department or equivalent fire service provider under contract with, or delegated by, the eligible entity on unincorporated land meet minimum standards for wildland fire training, certification, and suppression equipment based upon nationally accepted standards as specified by the division;

(c) invest in prevention, preparedness, and mitigation efforts, as agreed to with the division, that will reduce the eligible entity's risk of catastrophic wildfire;

(d) file with the division an annual accounting of wildfire prevention, preparedness, mitigation actions, and associated costs;

(e) return the financial statement described in Subsection (6), signed by the chief executive of the eligible entity, to the division on or before the date set by the division; and

(f) if the eligible entity is a county, have a designated fire warden as described in Section 65A-8-209.1.

(5) (a) The state forester may execute a cooperative agreement with the eligible entity.

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the:

(i) cooperative agreements described in this section;

(ii) manner in which an eligible entity shall provide proof of compliance with Subsection (4);

(iii) manner by which the division may revoke a cooperative agreement if an eligible entity ceases to meet the requirements described in this section;

(iv) accounting system for determining suppression costs;

(v) manner in which the division shall determine the eligible entity's participation commitment; and

(vi) manner in which an eligible entity may appeal a division determination.

(6) (a) The division shall send a financial statement to each eligible entity participating in a cooperative agreement that details the eligible entity's participation commitment for the coming fiscal year, including the prevention, preparedness, and mitigation actions agreed to under Subsection (4)(c).

(b) Each eligible entity participating in a cooperative agreement shall:

(i) have the chief executive of the eligible entity sign the financial statement, or the legislative body of the eligible entity approve the financial statement by resolution, confirming the eligible entity's participation for the upcoming year; and

(ii) return the financial statement to the division, on or before a date set by the division.

(c) A financial statement shall be effective for one calendar year, beginning on the date set by the division, as described in Subsection (6)(b).

(7) (a) An eligible entity may revoke a cooperative agreement before the end of the cooperative agreement's term by:

(i) informing the division, in writing, of the eligible entity's intention to revoke the cooperative agreement; or

(ii) failing to sign and return its annual financial statement, as described in Subsection (6)(b), unless the director grants an extension.

(b) An eligible entity may not revoke a cooperative agreement before the end of the term of a signed annual financial statement, as described in Subsection (6)(c).

(8) The division shall develop and maintain a wildfire risk assessment mapping tool that is online and publicly accessible.

(9) By no later than the 2021 November interim meeting of the Natural Resources, Agriculture, and Environment Interim Committee, the division shall report on the eligible entities' adherence to and implementation of their participation commitment under this chapter.

Section 139. Section **67-1a-6.5** is amended to read:

67-1a-6.5. Certification of local entity boundary actions -- Definitions -- Notice requirements -- Electronic copies -- Filing.

(1) As used in this section:

(a) "Applicable certificate" means:

(i) for the impending incorporation of a city, town, [~~local~~] special district, conservation district, or incorporation of a [~~local~~] special district from a reorganized special service district, a certificate of incorporation;

(ii) for the impending creation of a county, school district, special service district, community reinvestment agency, or interlocal entity, a certificate of creation;

(iii) for the impending annexation of territory to an existing local entity, a certificate of annexation;

(iv) for the impending withdrawal or disconnection of territory from an existing local entity, a certificate of withdrawal or disconnection, respectively;

(v) for the impending consolidation of multiple local entities, a certificate of consolidation;

(vi) for the impending division of a local entity into multiple local entities, a certificate of division;

(vii) for the impending adjustment of a common boundary between local entities, a certificate of boundary adjustment; and

(viii) for the impending dissolution of a local entity, a certificate of dissolution.

(b) "Approved final local entity plat" means a final local entity plat, as defined in Section 17-23-20, that has been approved under Section 17-23-20 as a final local entity plat by the county surveyor.

(c) "Approving authority" has the same meaning as defined in Section 17-23-20.

(d) "Boundary action" has the same meaning as defined in Section 17-23-20.

(e) "Center" means the Utah Geospatial Resource Center created under Section 63A-16-505.

(f) "Community reinvestment agency" has the same meaning as defined in Section 17C-1-102.

(g) "Conservation district" has the same meaning as defined in Section 17D-3-102.

(h) "Interlocal entity" has the same meaning as defined in Section 11-13-103.

[~~(i) "Local district" has the same meaning as defined in Section 17B-1-102.~~]

[~~(j)~~] (i) "Local entity" means a county, city, town, school district, [~~local~~] special

district, community reinvestment agency, special service district, conservation district, or interlocal entity.

[~~(k)~~] (j) "Notice of an impending boundary action" means a written notice, as described in Subsection (3), that provides notice of an impending boundary action.

(k) "Special district" means the same as that term is defined in Section 17B-1-102.

(l) "Special service district" [~~has the same meaning as~~] means the same as that term is defined in Section 17D-1-102.

(2) Within 10 days after receiving a notice of an impending boundary action, the lieutenant governor shall:

(a) (i) issue the applicable certificate, if:

(A) the lieutenant governor determines that the notice of an impending boundary action meets the requirements of Subsection (3); and

(B) except in the case of an impending local entity dissolution, the notice of an impending boundary action is accompanied by an approved final local entity plat;

(ii) send the applicable certificate to the local entity's approving authority;

(iii) return the original of the approved final local entity plat to the local entity's approving authority;

(iv) send a copy of the applicable certificate and approved final local entity plat to:

(A) the State Tax Commission;

(B) the center; and

(C) the county assessor, county surveyor, county auditor, and county attorney of each county in which the property depicted on the approved final local entity plat is located; and

(v) send a copy of the applicable certificate to the state auditor, if the boundary action that is the subject of the applicable certificate is:

(A) the incorporation or creation of a new local entity;

(B) the consolidation of multiple local entities;

(C) the division of a local entity into multiple local entities; or

(D) the dissolution of a local entity; or

(b) (i) send written notification to the approving authority that the lieutenant governor is unable to issue the applicable certificate, if:

(A) the lieutenant governor determines that the notice of an impending boundary action

does not meet the requirements of Subsection (3); or

(B) the notice of an impending boundary action is:

(I) not accompanied by an approved final local entity plat; or

(II) accompanied by a plat or final local entity plat that has not been approved as a final local entity plat by the county surveyor under Section 17-23-20; and

(ii) explain in the notification under Subsection (2)(b)(i) why the lieutenant governor is unable to issue the applicable certificate.

(3) Each notice of an impending boundary action shall:

(a) be directed to the lieutenant governor;

(b) contain the name of the local entity or, in the case of an incorporation or creation, future local entity, whose boundary is affected or established by the boundary action;

(c) describe the type of boundary action for which an applicable certificate is sought;

(d) be accompanied by a letter from the Utah State Retirement Office, created under Section 49-11-201, to the approving authority that identifies the potential provisions under Title 49, Utah State Retirement and Insurance Benefit Act, that the local entity shall comply with, related to the boundary action, if the boundary action is an impending incorporation or creation of a local entity that may result in the employment of personnel; and

(e) (i) contain a statement, signed and verified by the approving authority, certifying that all requirements applicable to the boundary action have been met; or

(ii) in the case of the dissolution of a municipality, be accompanied by a certified copy of the court order approving the dissolution of the municipality.

(4) The lieutenant governor may require the approving authority to submit a paper or electronic copy of a notice of an impending boundary action and approved final local entity plat in conjunction with the filing of the original of those documents.

(5) (a) The lieutenant governor shall:

(i) keep, index, maintain, and make available to the public each notice of an impending boundary action, approved final local entity plat, applicable certificate, and other document that the lieutenant governor receives or generates under this section;

(ii) make a copy of each document listed in Subsection (5)(a)(i) available on the Internet for 12 months after the lieutenant governor receives or generates the document;

(iii) furnish a paper copy of any of the documents listed in Subsection (5)(a)(i) to any

person who requests a paper copy; and

(iv) furnish a certified copy of any of the documents listed in Subsection (5)(a)(i) to any person who requests a certified copy.

(b) The lieutenant governor may charge a reasonable fee for a paper copy or certified copy of a document that the lieutenant governor provides under this Subsection (5).

Section 140. Section **67-1a-15** is amended to read:

67-1a-15. Local government and limited purpose entity registry.

(1) As used in this section:

(a) "Entity" means a limited purpose entity or a local government entity.

(b) (i) "Limited purpose entity" means a legal entity that:

(A) performs a single governmental function or limited governmental functions; and

(B) is not a state executive branch agency, a state legislative office, or within the judicial branch.

(ii) "Limited purpose entity" includes:

(A) area agencies, area agencies on aging, and area agencies on high risk adults, as those terms are defined in Section 62A-3-101;

(B) charter schools created under Title 53G, Chapter 5, Charter Schools;

(C) community reinvestment agencies, as that term is defined in Section 17C-1-102;

(D) conservation districts, as that term is defined in Section 17D-3-102;

(E) governmental nonprofit corporations, as that term is defined in Section 11-13a-102;

(F) housing authorities, as that term is defined in Section 35A-8-401;

(G) independent entities and independent state agencies, as those terms are defined in Section 63E-1-102;

(H) interlocal entities, as that term is defined in Section 11-13-103;

(I) local building authorities, as that term is defined in Section 17D-2-102;

(J) [~~local~~] special districts, as that term is defined in Section 17B-1-102;

(K) local health departments, as that term is defined in Section 26A-1-102;

(L) local mental health authorities, as that term is defined in Section 62A-15-102;

(M) nonprofit corporations that receive an amount of money requiring an accounting report under Section 51-2a-201.5;

(N) school districts under Title 53G, Chapter 3, School District Creation and Change;

(O) special service districts, as that term is defined in Section 17D-1-102; and

(P) substance abuse authorities, as that term is defined in Section 62A-15-102.

(c) "Local government and limited purpose entity registry" or "registry" means the registry of local government entities and limited purpose entities created under this section.

(d) "Local government entity" means:

(i) a county, as that term is defined in Section 17-50-101; and

(ii) a municipality, as that term is defined in Section 10-1-104.

(e) "Notice of failure to register" means the notice the lieutenant governor sends, in accordance with Subsection (7)(a), to an entity that does not register.

(f) "Notice of failure to renew" means the notice the lieutenant governor sends to a registered entity, in accordance with Subsection (7)(b).

(g) "Notice of noncompliance" means the notice the lieutenant governor sends to a registered entity, in accordance with Subsection (6)(c).

(h) "Notice of non-registration" means the notice the lieutenant governor sends to an entity and the state auditor, in accordance with Subsection (9).

(i) "Notice of registration or renewal" means the notice the lieutenant governor sends, in accordance with Subsection (6)(b)(i).

(j) "Registered entity" means an entity with a valid registration as described in Subsection (8).

(2) The lieutenant governor shall:

(a) create a registry of each local government entity and limited purpose entity within the state that:

(i) contains the information described in Subsection (4); and

(ii) is accessible on the lieutenant governor's website or otherwise publicly available; and

(b) establish fees for registration and renewal, in accordance with Section 63J-1-504, based on and to directly offset the cost of creating, administering, and maintaining the registry.

(3) Each local government entity and limited purpose entity shall:

(a) on or before July 1, 2019, register with the lieutenant governor as described in Subsection (4);

(b) on or before one year after the day on which the lieutenant governor issues the

notice of registration or renewal, annually renew the entity's registration in accordance with Subsection (5); and

(c) on or before 30 days after the day on which any of the information described in Subsection (4) changes, send notice of the changes to the lieutenant governor.

(4) Each entity shall include the following information in the entity's registration submission:

(a) the resolution or other legal or formal document creating the entity or, if the resolution or other legal or formal document creating the entity cannot be located, conclusive proof of the entity's lawful creation;

(b) if the entity has geographic boundaries, a map or plat identifying the current geographic boundaries of the entity, or if it is impossible or unreasonably expensive to create a map or plat, a metes and bounds description, or another legal description that identifies the current boundaries of the entity;

(c) the entity's name;

(d) the entity's type of local government entity or limited purpose entity;

(e) the entity's governmental function;

(f) the entity's website, physical address, and phone number, including the name and contact information of an individual whom the entity designates as the primary contact for the entity;

(g) (i) names, email addresses, and phone numbers of the members of the entity's governing board or commission, managing officers, or other similar managers and the method by which the members or officers are appointed, elected, or otherwise designated;

(ii) the date of the most recent appointment or election of each entity governing board or commission member; and

(iii) the date of the anticipated end of each entity governing board or commission member's term;

(h) the entity's sources of revenue; and

(i) if the entity has created an assessment area, as that term is defined in Section 11-42-102, information regarding the creation, purpose, and boundaries of the assessment area.

(5) Each entity shall include the following information in the entity's renewal submission:

(a) identify and update any incorrect or outdated information the entity previously submitted during registration under Subsection (4); or

(b) certify that the information the entity previously submitted during registration under Subsection (4) is correct without change.

(6) Within 30 days of receiving an entity's registration or renewal submission, the lieutenant governor shall:

(a) review the submission to determine compliance with Subsection (4) or (5);

(b) if the lieutenant governor determines that the entity's submission complies with Subsection (4) or (5):

(i) send a notice of registration or renewal that includes the information that the entity submitted under Subsection (4) or (5) to:

(A) the registering or renewing entity;

(B) each county in which the entity operates, either in whole or in part, or where the entity's geographic boundaries overlap or are contained within the boundaries of the county;

(C) the Division of Archives and Records Service; and

(D) the Office of the Utah State Auditor; and

(ii) publish the information from the submission on the registry, except any email address or phone number that is personal information as defined in Section 63G-2-303; and

(c) if the lieutenant governor determines that the entity's submission does not comply with Subsection (4) or (5) or is otherwise inaccurate or deficient, send a notice of noncompliance to the registering or renewing entity that:

(i) identifies each deficiency in the entity's submission with the corresponding statutory requirement;

(ii) establishes a deadline to cure the entity's noncompliance that is the first business day that is at least 30 calendar days after the day on which the lieutenant governor sends the notice of noncompliance; and

(iii) states that failure to comply by the deadline the lieutenant governor establishes under Subsection (6)(c)(ii) will result in the lieutenant governor sending a notice of non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).

(7) (a) If the lieutenant governor identifies an entity that does not make a registration submission in accordance with Subsection (4) by the deadline described in Subsection (3), the

lieutenant governor shall send a notice of failure to register to the registered entity that:

(i) identifies the statutorily required registration deadline described in Subsection (3) that the entity did not meet;

(ii) establishes a deadline to cure the entity's failure to register that is the first business day that is at least 10 calendar days after the day on which the lieutenant governor sends the notice of failure to register; and

(iii) states that failure to comply by the deadline the lieutenant governor establishes under Subsection (7)(a)(ii) will result in the lieutenant governor sending a notice of non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).

(b) If a registered entity does not make a renewal submission in accordance with Subsection (5) by the deadline described in Subsection (3), the lieutenant governor shall send a notice of failure to renew to the registered entity that:

(i) identifies the renewal deadline described in Subsection (3) that the entity did not meet;

(ii) establishes a deadline to cure the entity's failure to renew that is the first business day that is at least 30 calendar days after the day on which the lieutenant governor sends the notice of failure to renew; and

(iii) states that failure to comply by the deadline the lieutenant governor establishes under Subsection (7)(b)(ii) will result in the lieutenant governor sending a notice of non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).

(8) An entity's registration is valid:

(a) if the entity makes a registration or renewal submission in accordance with the deadlines described in Subsection (3);

(b) during the period the lieutenant governor establishes in the notice of noncompliance or notice of failure to renew during which the entity may cure the identified registration deficiencies; and

(c) for one year beginning on the day the lieutenant governor issues the notice of registration or renewal.

(9) (a) The lieutenant governor shall send a notice of non-registration to the Office of the Utah State Auditor if an entity fails to:

(i) cure the entity's noncompliance by the deadline the lieutenant governor establishes

in the notice of noncompliance;

(ii) register by the deadline the lieutenant governor establishes in the notice of failure to register; or

(iii) cure the entity's failure to renew by the deadline the lieutenant governor establishes in the notice of failure to renew.

(b) The lieutenant governor shall ensure that the notice of non-registration:

(i) includes a copy of the notice of noncompliance, the notice of failure to register, or the notice of failure to renew; and

(ii) requests that the state auditor withhold state allocated funds or the disbursement of property taxes and prohibit the entity from accessing money held by the state or money held in an account of a financial institution, in accordance with Subsections 67-3-1(7)(i) and 67-3-1(10).

(10) The lieutenant governor may extend a deadline under this section if an entity notifies the lieutenant governor, before the deadline to be extended, of the existence of an extenuating circumstance that is outside the control of the entity.

(11) (a) An entity is not required to renew submission of a registration under this section if an entity provides a record of dissolution.

(b) The lieutenant governor shall include in the registry an entity's record of dissolution and indicate on the registry that the entity is dissolved.

Section 141. Section **67-1b-102** is amended to read:

67-1b-102. Definitions.

As used in this chapter:

(1) "Board of canvassers" means the state board of canvassers created in Section 20A-4-306.

(2) (a) "Executive branch" means:

(i) the governor, the governor's staff, and the governor's appointed advisors;

(ii) the lieutenant governor and lieutenant governor's staff;

(iii) cabinet level officials;

(iv) except as provided in Subsection (2)(b), an agency, board, department, division, committee, commission, council, office, or other administrative subunit of the executive branch of state government;

(v) except as provided in Subsection (2)(b), a cabinet officer, elected official, executive director, or board or commission vested with:

(A) policy making and oversight responsibility for a state executive branch agency; or

(B) authority to appoint and remove the director of a state executive branch agency;

(vi) executive ministerial officers;

(vii) each gubernatorial appointee to a state board, committee, commission, council, or authority;

(viii) each executive branch management position, as defined in Section 67-1-1.5;

(ix) each executive branch policy position, as defined in Section 67-1-1.5; and

(x) the military forces of the state.

(b) "Executive branch" does not include:

(i) the legislative branch;

(ii) the judicial branch;

(iii) the State Board of Education;

(iv) the Utah Board of Higher Education;

(v) institutions of higher education;

(vi) independent entities as defined in Section 63E-1-102;

(vii) elective constitutional offices of the executive department, including the state auditor, the state treasurer, and the attorney general;

(viii) a county, municipality, school district, [~~local~~] special district, or special service district; or

(ix) an administrative subdivision of a county, municipality, school district, [~~local~~] special district, or special service district.

(3) "Governor-elect" means, during a transition period, an individual whom the board of canvassers determines to be the successful candidate for governor after a general election for the office of governor, if that successful candidate is an individual other than the incumbent governor.

(4) "Governor-elect's staff" means:

(a) an individual that a governor-elect intends to nominate as a department head;

(b) an individual that a governor-elect intends to appoint to a key position in the executive branch;

(c) an individual hired by a governor-elect under Subsection 67-1b-105(1)(c); and

(d) any other individual expressly engaged by the governor-elect to assist with the governor-elect's transition into the office of governor.

(5) "Governor's Office of Planning and Budget" means the office created in Section 63J-4-201.

(6) "Incoming gubernatorial administration" means a governor-elect, a governor-elect's staff, a lieutenant governor-elect, and a lieutenant governor-elect's staff.

(7) "Lieutenant governor-elect" means, during a transition period, an individual whom the board of canvassers determines to be the successful candidate for lieutenant governor after a general election for the office of lieutenant governor, if that successful candidate is an individual other than the incumbent lieutenant governor.

(8) "Lieutenant governor-elect's staff" means:

(a) an individual hired by a lieutenant governor-elect under Subsection 67-1b-105(1)(c); and

(b) any other individual expressly engaged by the lieutenant governor-elect to assist with the lieutenant governor-elect's transition into the office of lieutenant governor.

(9) "Office of the Legislative Fiscal Analyst" means the office created in Section 36-12-13.

(10) "Record" means the same as that term is defined in Section 63G-2-103.

(11) "Transition period" means the period of time beginning the day after the meeting of the board of canvassers under Section 20A-4-306 in a year in which the board of canvassers determines that the successful candidate for governor is an individual other than the incumbent governor, and ending on the first Monday of the next January.

Section 142. Section **67-3-1** is amended to read:

67-3-1. Functions and duties.

(1) (a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

(b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable and necessary expenses of the state auditor's office.

(2) The state auditor shall examine and certify annually in respect to each fiscal year, financial statements showing:

(a) the condition of the state's finances;

(b) the revenues received or accrued;

(c) expenditures paid or accrued;

(d) the amount of unexpended or unencumbered balances of the appropriations to the agencies, departments, divisions, commissions, and institutions; and

(e) the cash balances of the funds in the custody of the state treasurer.

(3) (a) The state auditor shall:

(i) audit each permanent fund, each special fund, the General Fund, and the accounts of any department of state government or any independent agency or public corporation as the law requires, as the auditor determines is necessary, or upon request of the governor or the Legislature;

(ii) perform the audits in accordance with generally accepted auditing standards and other auditing procedures as promulgated by recognized authoritative bodies; and

(iii) as the auditor determines is necessary, conduct the audits to determine:

(A) honesty and integrity in fiscal affairs;

(B) accuracy and reliability of financial statements;

(C) effectiveness and adequacy of financial controls; and

(D) compliance with the law.

(b) If any state entity receives federal funding, the state auditor shall ensure that the audit is performed in accordance with federal audit requirements.

(c) (i) The costs of the federal compliance portion of the audit may be paid from an appropriation to the state auditor from the General Fund.

(ii) If an appropriation is not provided, or if the federal government does not specifically provide for payment of audit costs, the costs of the federal compliance portions of the audit shall be allocated on the basis of the percentage that each state entity's federal funding bears to the total federal funds received by the state.

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed through the state to local governments and to reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.

(4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to financial audits, and as the auditor determines is necessary, conduct performance and special

purpose audits, examinations, and reviews of any entity that receives public funds, including a determination of any or all of the following:

(i) the honesty and integrity of all the entity's fiscal affairs;

(ii) whether the entity's administrators have faithfully complied with legislative intent;

(iii) whether the entity's operations have been conducted in an efficient, effective, and cost-efficient manner;

(iv) whether the entity's programs have been effective in accomplishing the intended objectives; and

(v) whether the entity's management, control, and information systems are adequate, effective, and secure.

(b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:

(i) has an elected auditor; and

(ii) has, within the entity's last budget year, had the entity's financial statements or performance formally reviewed by another outside auditor.

(5) The state auditor:

(a) shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office; and

(b) may:

(i) subpoena witnesses and documents, whether electronic or otherwise; and

(ii) examine into any matter that the auditor considers necessary.

(6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding the property at the time and in the form that the auditor requires.

(7) The state auditor shall:

(a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of revenues against:

(i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and

(ii) all debtors of the state;

(b) collect and pay into the state treasury all fees received by the state auditor;

(c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;

(d) stop the payment of the salary of any state official or state employee who:

(i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;

(ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds; or

(iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;

(e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

(f) superintend the contractual auditing of all state accounts;

(g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds;

(h) subject to Subsection (9), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1; and

(i) withhold state allocated funds or the disbursement of property taxes from a local government entity or a limited purpose entity, as those terms are defined in Section 67-1a-15 if the state auditor finds the withholding necessary to ensure that the entity registers and maintains the entity's registration with the lieutenant governor, in accordance with Section 67-1a-15.

(8) (a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(b) If, after receiving notice under Subsection (8)(a), a state or independent local

fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

(i) shall provide a recommended timeline for corrective actions;

(ii) may prohibit the state or local fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by filing an action in district court requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an account.

(c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds.

(d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with state law, the state auditor:

(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;

(ii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a taxing or fee-assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.

(e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).

(9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

(b) If the state auditor receives a notice of non-registration, the state auditor may prohibit the local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the entity access to an account.

(c) The state auditor shall remove the prohibition on accessing funds described in Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in Section 67-1a-15, from the lieutenant governor.

(11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the state auditor:

(a) shall authorize a disbursement by a local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing unit if the disbursement is necessary to:

(i) avoid a major disruption in the operations of the local government entity, limited purpose entity, or state or local taxing or fee-assessing unit; or

(ii) meet debt service obligations; and

(b) may authorize a disbursement by a local government entity, limited purpose entity, or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

(12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to take temporary custody of public funds if an action is necessary to protect public funds from being improperly diverted from their intended public purpose.

(b) If the state auditor seeks relief under Subsection (12)(a):

(i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8); and

(ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a

court orders the public funds to be protected from improper diversion from their public purpose.

(13) The state auditor shall:

(a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local Mental Health Authorities, Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, and Title 62A, Chapter 15, Substance Abuse and Mental Health Act; and

(b) ensure that those guidelines and procedures provide assurances to the state that:

(i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;

(ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance with state and local contract requirements, and state and federal law;

(iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and

(iv) a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for a local substance abuse authority is in compliance with state and local contract requirements, and state and federal law.

(14) (a) The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.

(b) If the state auditor receives notice under Subsection 11-41-104(7) from the Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may initiate an audit or investigation of the public entity subject to the notice to determine compliance with Section 11-41-103.

(15) (a) The state auditor may not audit work that the state auditor performed before

becoming state auditor.

(b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:

(i) designate how that work shall be audited; and

(ii) provide additional funding for those audits, if necessary.

(16) The state auditor shall:

(a) with the assistance, advice, and recommendations of an advisory committee appointed by the state auditor from among [~~local~~] special district boards of trustees, officers, and employees and special service district boards, officers, and employees:

(i) prepare a Uniform Accounting Manual for [~~Local~~] Special Districts that:

(A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for [~~local~~] special districts under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, and special service districts under Title 17D, Chapter 1, Special Service District Act;

(B) conforms with generally accepted accounting principles; and

(C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;

(ii) maintain the manual under this Subsection (16)(a) so that the manual continues to reflect generally accepted accounting principles;

(iii) conduct a continuing review and modification of procedures in order to improve them;

(iv) prepare and supply each district with suitable budget and reporting forms; and

(v) (A) prepare instructional materials, conduct training programs, and render other services considered necessary to assist [~~local~~] special districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and

(B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and

(b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific [~~local~~] special districts and special service districts selected by the state auditor and make the information available to all districts.

(17) (a) The following records in the custody or control of the state auditor are

protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;

(ii) records and audit workpapers to the extent the workpapers would disclose the identity of an individual who during the course of an audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the individual be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to an individual who is not an employee or head of a governmental entity for the individual's response or information;

(iv) records that would disclose an outline or part of any audit survey plans or audit program; and

(v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(c) The provisions of this Subsection (17) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

(ii) The state auditor may submit a record dispute to the State Records Committee, created in Section 63G-2-501, for a determination of whether the state auditor may, in conjunction with the state auditor's release of an audit report, release to the public the record that is the subject of the record dispute.

(iii) The state auditor or the subject of the audit may seek judicial review of a State Records Committee determination under Subsection (17)(d)(ii), as provided in Section 63G-2-404.

(18) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through the Legislative Management Committee's audit subcommittee that the entity has not implemented that recommendation.

(19) The state auditor shall, with the advice and consent of the Senate, appoint the state privacy officer described in Section 67-3-13.

(20) The state auditor shall report, or ensure that another government entity reports, on the financial, operational, and performance metrics for the state system of higher education and the state system of public education, including metrics in relation to students, programs, and schools within those systems.

Section 143. Section **67-3-12** is amended to read:

67-3-12. Utah Public Finance Website -- Establishment and administration -- Records disclosure -- Exceptions.

(1) As used in this section:

(a) (i) Subject to Subsections (1)(a)(ii) and (iii), "independent entity" means the same as that term is defined in Section 63E-1-102.

(ii) "Independent entity" includes an entity that is part of an independent entity described in Subsection (1)(a)(i), if the entity is considered a component unit of the independent entity under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(iii) "Independent entity" does not include the Utah State Retirement Office created in Section 49-11-201.

(b) "Local education agency" means a school district or charter school.

(c) "Participating local entity" means:

(i) a county;

(ii) a municipality;

(iii) a [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts;

(iv) a special service district under Title 17D, Chapter 1, Special Service District Act;

(v) a housing authority under Title 35A, Chapter 8, Part 4, Housing Authorities;

(vi) a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act;

(vii) except for a taxed interlocal entity as defined in Section 11-13-602:

(A) an interlocal entity as defined in Section 11-13-103;

(B) a joint or cooperative undertaking as defined in Section 11-13-103; or

(C) any project, program, or undertaking entered into by interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;

(viii) except for a taxed interlocal entity as defined in Section 11-13-602, an entity that is part of an entity described in Subsections (1)(c)(i) through (vii), if the entity is considered a component unit of the entity described in Subsections (1)(c)(i) through (vii) under the governmental accounting standards issued by the Governmental Accounting Standards Board; or

(ix) a conservation district under Title 17D, Chapter 3, Conservation District Act.

(d) (i) "Participating state entity" means the state of Utah, including its executive, legislative, and judicial branches, its departments, divisions, agencies, boards, commissions, councils, committees, and institutions.

(ii) "Participating state entity" includes an entity that is part of an entity described in Subsection (1)(d)(i), if the entity is considered a component unit of the entity described in Subsection (1)(d)(i) under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(e) "Public finance website" or "website" means the website established by the state auditor in accordance with this section.

(f) "Public financial information" means each record that is required under this section

or by rule made by the Office of the State Auditor under Subsection (9) to be made available on the public finance website, a participating local entity's website, or an independent entity's website.

(g) "Qualifying entity" means:

(i) an independent entity;

(ii) a participating local entity;

(iii) a participating state entity;

(iv) a local education agency;

(v) a state institution of higher education as defined in Section 53B-3-102;

(vi) the Utah Educational Savings Plan created in Section 53B-8a-103;

(vii) the Utah Housing Corporation created in Section 63H-8-201;

(viii) the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(ix) the Utah Capital Investment Corporation created in Section 63N-6-301; or

(x) a URS-participating employer.

(h) (i) "URS-participating employer" means an entity that:

(A) is a participating employer, as that term is defined in Section 49-11-102; and

(B) is not required to report public financial information under this section as a qualifying entity described in Subsections (1)(g)(i) through (ix).

(ii) "URS-participating employer" does not include:

(A) the Utah State Retirement Office created in Section 49-11-201;

(B) an insurer that is subject to the disclosure requirements of Section 31A-4-113; or

(C) a withdrawing entity.

(i) (i) "Withdrawing entity" means:

(A) an entity that elects to withdraw from participation in a system or plan under Title 49, Chapter 11, Part 6, Procedures and Records;

(B) until the date determined under Subsection 49-11-626(2)(a), a public employees' association that provides the notice of intent described in Subsection 49-11-626(2)(b); and

(C) beginning on the date determined under Subsection 49-11-626(2)(a), a public employees' association that makes an election described in Subsection 49-11-626(3).

(ii) "Withdrawing entity" includes a withdrawing entity, as that term is defined in

Sections 49-11-623 and 49-11-624.

(2) The state auditor shall establish and maintain a public finance website in accordance with this section.

(3) The website shall:

(a) permit Utah taxpayers to:

(i) view, understand, and track the use of taxpayer dollars by making public financial information available on the Internet for participating state entities, independent entities, participating local entities, and URS-participating employers, using the website; and

(ii) link to websites administered by participating local entities, independent entities, or URS-participating employers that do not use the website for the purpose of providing public financial information as required by this section and by rule made under Subsection (9);

(b) allow a person that has Internet access to use the website without paying a fee;

(c) allow the public to search public financial information on the website;

(d) provide access to financial reports, financial audits, budgets, or other financial documents that are used to allocate, appropriate, spend, and account for government funds, as may be established by rule made in accordance with Subsection (9);

(e) have a unique and simplified website address;

(f) be guided by the principles described in Subsection 63A-16-202(2);

(g) include other links, features, or functionality that will assist the public in obtaining and reviewing public financial information, as may be established by rule made under Subsection (9); and

(h) include a link to school report cards published on the State Board of Education's website under Section 53E-5-211.

(4) The state auditor shall:

(a) establish and maintain the website, including the provision of equipment, resources, and personnel as necessary;

(b) maintain an archive of all information posted to the website;

(c) coordinate and process the receipt and posting of public financial information from participating state entities; and

(d) coordinate and regulate the posting of public financial information by participating local entities and independent entities.

(5) A qualifying entity shall permit the public to view the qualifying entity's public financial information by posting the public financial information to the public finance website in accordance with rules made under Subsection (9).

(6) The content of the public financial information posted to the public finance website is the responsibility of the qualifying entity posting the public financial information.

(7) A URS-participating employer shall provide employee compensation information for each fiscal year ending on or after June 30, 2022:

(a) to the state auditor for posting on the Utah Public Finance Website; or

(b) (i) through the URS-participating employer's own website; and

(ii) via a link to the website described in Subsection (7)(b)(i), submitted to the state auditor for posting on the Utah Public Finance Website.

(8) (a) A qualifying entity may not post financial information that is classified as private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act, to the public finance website.

(b) An individual who negligently discloses financial information that is classified as private, protected, or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is not criminally or civilly liable for an improper disclosure of the financial information if the financial information is disclosed solely as a result of the preparation or publication of the website.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Office of the State Auditor:

(a) shall make rules to:

(i) establish which records a qualifying entity is required to post to the public finance website; and

(ii) establish procedures for obtaining, submitting, reporting, storing, and posting public financial information on the public finance website; and

(b) may make rules governing when a qualifying entity is required to disclose an expenditure made by a person under contract with the qualifying entity, including the form and content of the disclosure.

(10) The rules made under Subsection (9) shall only require a URS-participating employer to provide employee compensation information for each fiscal year ending on or after

June 30, 2022:

(a) to the state auditor for posting on the public finance website; or

(b) (i) through the URS-participating employer's own website; and

(ii) via a link to the website described in Subsection (10)(b)(i), submitted to the state auditor for posting on the public finance website.

Section 144. Section **67-3-13** is amended to read:

67-3-13. State privacy officer.

(1) As used in this section:

(a) "Designated government entity" means a government entity that is not a state agency.

(b) "Independent entity" means the same as that term is defined in Section 63E-1-102.

(c) (i) "Government entity" means the state, a county, a municipality, a higher education institution, a [~~local~~] special district, a special service district, a school district, an independent entity, or any other political subdivision of the state or an administrative subunit of any political subdivision, including a law enforcement entity.

(ii) "Government entity" includes an agent of an entity described in Subsection (1)(c)(i).

(d) (i) "Personal data" means any information relating to an identified or identifiable individual.

(ii) "Personal data" includes personally identifying information.

(e) (i) "Privacy practice" means the acquisition, use, storage, or disposal of personal data.

(ii) "Privacy practice" includes:

(A) a technology use related to personal data; and

(B) policies related to the protection, storage, sharing, and retention of personal data.

(f) (i) "State agency" means the following entities that are under the direct supervision and control of the governor or the lieutenant governor:

(A) a department;

(B) a commission;

(C) a board;

(D) a council;

(E) an institution;

(F) an officer;

(G) a corporation;

(H) a fund;

(I) a division;

(J) an office;

(K) a committee;

(L) an authority;

(M) a laboratory;

(N) a library;

(O) a bureau;

(P) a panel;

(Q) another administrative unit of the state; or

(R) an agent of an entity described in Subsections (A) through (Q).

(ii) "State agency" does not include:

(A) the legislative branch;

(B) the judicial branch;

(C) an executive branch agency within the Office of the Attorney General, the state auditor, the state treasurer, or the State Board of Education; or

(D) an independent entity.

(2) The state privacy officer shall:

(a) when completing the duties of this Subsection (2), focus on the privacy practices of designated government entities;

(b) compile information about government privacy practices of designated government entities;

(c) make public and maintain information about government privacy practices on the state auditor's website;

(d) provide designated government entities with educational and training materials developed by the Personal Privacy Oversight Commission established in Section 63C-24-201 that include the information described in Subsection 63C-24-202(1)(b);

(e) implement a process to analyze and respond to requests from individuals for the

state privacy officer to review a designated government entity's privacy practice;

(f) identify annually which designated government entities' privacy practices pose the greatest risk to individual privacy and prioritize those privacy practices for review;

(g) review each year, in as timely a manner as possible, the privacy practices that the privacy officer identifies under Subsection (2)(e) or (2)(f) as posing the greatest risk to individuals' privacy;

(h) when reviewing a designated government entity's privacy practice under Subsection (2)(g), analyze:

(i) details about the technology or the policy and the technology's or the policy's application;

(ii) information about the type of data being used;

(iii) information about how the data is obtained, stored, shared, secured, and disposed;

(iv) information about with which persons the designated government entity shares the information;

(v) information about whether an individual can or should be able to opt out of the retention and sharing of the individual's data;

(vi) information about how the designated government entity de-identifies or anonymizes data;

(vii) a determination about the existence of alternative technology or improved practices to protect privacy; and

(viii) a finding of whether the designated government entity's current privacy practice adequately protects individual privacy; and

(i) after completing a review described in Subsections (2)(g) and (h), determine:

(i) each designated government entity's use of personal data, including the designated government entity's practices regarding data:

(A) acquisition;

(B) storage;

(C) disposal;

(D) protection; and

(E) sharing;

(ii) the adequacy of the designated government entity's practices in each of the areas

described in Subsection (2)(i)(i); and

(iii) for each of the areas described in Subsection (2)(i)(i) that the state privacy officer determines to require reform, provide recommendations for reform to the designated government entity and the legislative body charged with regulating the designated government entity.

(3) (a) The legislative body charged with regulating a designated government entity that receives a recommendation described in Subsection (2)(i)(iii) shall hold a public hearing on the proposed reforms:

(i) with a quorum of the legislative body present; and

(ii) within 90 days after the day on which the legislative body receives the recommendation.

(b) (i) The legislative body shall provide notice of the hearing described in Subsection (3)(a).

(ii) Notice of the public hearing and the recommendations to be discussed shall be posted on:

(A) the Utah Public Notice Website created in Section 63A-16-601 for 30 days before the day on which the legislative body will hold the public hearing; and

(B) the website of the designated government entity that received a recommendation, if the designated government entity has a website, for 30 days before the day on which the legislative body will hold the public hearing.

(iii) Each notice required under Subsection (3)(b)(i) shall:

(A) identify the recommendations to be discussed; and

(B) state the date, time, and location of the public hearing.

(c) During the hearing described in Subsection (3)(a), the legislative body shall:

(i) provide the public the opportunity to ask questions and obtain further information about the recommendations; and

(ii) provide any interested person an opportunity to address the legislative body with concerns about the recommendations.

(d) At the conclusion of the hearing, the legislative body shall determine whether the legislative body shall adopt reforms to address the recommendations and any concerns raised during the public hearing.

(4) (a) Except as provided in Subsection (4)(b), if the government operations privacy officer described in Section 67-1-17 is not conducting reviews of the privacy practices of state agencies, the state privacy officer may review the privacy practices of a state agency in accordance with the processes described in this section.

(b) Subsection (3) does not apply to a state agency.

(5) The state privacy officer shall:

(a) quarterly report, to the Personal Privacy Oversight Commission:

(i) recommendations for privacy practices for the commission to review; and

(ii) the information provided in Subsection (2)(i); and

(b) annually, on or before October 1, report to the Judiciary Interim Committee:

(i) the results of any reviews described in Subsection (2)(g), if any reviews have been completed;

(ii) reforms, to the extent that the state privacy officer is aware of any reforms, that the designated government entity made in response to any reviews described in Subsection (2)(g);

(iii) the information described in Subsection (2)(i); and

(iv) recommendations for legislation based on any results of a review described in Subsection (2)(g).

Section 145. Section **67-11-2** is amended to read:

67-11-2. Definitions.

For the purposes of this chapter:

(1) "Employee" includes an elective or appointive officer or employee of a state or political subdivision thereof.

(2) "Employment" means any service performed by an employee in the employ of the state, or any political subdivision thereof, for such employer, except:

(a) service which in the absence of an agreement entered into under this chapter would constitute "employment" as defined in the Social Security Act;

(b) service which under the Social Security Act may not be included in an agreement between the state and federal security administrator entered into under this chapter;

(c) services of an emergency nature, service in any class or classes of positions the compensation for which is on a fee basis:

(i) performed by employees of the state; or

(ii) if so provided in the plan submitted under Section 67-11-5, by a political subdivision of the state, by an employee of such subdivision;

(d) services performed by students employed by a public school, college, or university at which they are enrolled and which they are attending on a full-time basis;

(e) part-time services performed by election workers, i.e., judges of election and registrars; or

(f) services performed by voluntary firemen, except when such services are prescheduled for a specific period of duty.

(3) "Federal Insurance Contributions Act" means Chapter 21 of the Internal Revenue Code as such Code may be amended.

(4) "Federal security administrator" includes any individual to whom the federal security administrator has delegated any of his functions under the Social Security Act with respect to coverage under such act of employees of states and their political subdivisions.

(5) "Political subdivision" includes:

(a) an instrumentality of the state, of one or more of its political subdivisions, or of the state and one or more of its political subdivisions, including leagues or associations [~~thereof, but only if such~~] of the instrumentality, if:

(i) the instrumentality is a juristic entity [~~which~~] that is legally separate and distinct from the state or subdivision; and [~~only if its~~]

(ii) the instrumentality's employees are not [~~by virtue of their relation to such juristic entity~~], due to their relation to the instrumentality, employees of the state or subdivision[~~. The term shall include local~~]; and

(b) special districts, special service districts, or authorities created by the Legislature or local governments [~~such as, but not limited to,~~], including mosquito abatement districts, sewer or water districts, and libraries.

(6) "Sick pay" means payments made to employees on account of sickness or accident disability under a sick leave plan of the type outlined in 42 U.S.C. Secs. 409(a)(2) and (3) of the Social Security Act.

(7) "Social Security Act" means the Act of Congress approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as the "Social Security Act," (including regulations and requirements issued pursuant thereto), as such act has been and may from time to time be

amended.

(8) "State agency" means the Division of Finance, referred to herein as the state agency.

(9) "Wages" means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include "sick pay" as that term is defined in this section and shall not include that part of such remuneration which, even if it were for "employment" within the meaning of the Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that act.

Section 146. Section **67-21-2** is amended to read:

67-21-2. Definitions.

As used in this chapter:

(1) "Abuse of authority" means an arbitrary or capricious exercise of power that:

(a) adversely affects the employment rights of another; or

(b) results in personal gain to the person exercising the authority or to another person.

(2) "Communicate" means a verbal, written, broadcast, or other communicated report.

(3) "Damages" means general and special damages for injury or loss caused by each violation of this chapter.

(4) "Employee" means a person who performs a service for wages or other remuneration under a contract of hire, written or oral, express or implied.

(5) (a) "Employer" means the public body or public entity that employs the employee.

(b) "Employer" includes an agent of an employer.

(6) "Good faith" means that an employee acts with:

(a) subjective good faith; and

(b) the objective good faith of a reasonable employee.

(7) "Gross mismanagement" means action or failure to act by a person, with respect to a person's responsibility, that causes significant harm or risk of harm to the mission of the public entity or public body that employs, or is managed or controlled by, the person.

(8) "Judicial employee" means an employee of the judicial branch of state government.

(9) "Legislative employee" means an employee of the legislative branch of state government.

(10) "Political subdivision employee" means an employee of a political subdivision of

the state.

(11) "Public body" means any of the following:

(a) a state officer, employee, agency, department, division, bureau, board, commission, council, authority, educational institution, or any other body in the executive branch of state government;

(b) an agency, board, commission, council, institution member, or employee of the legislative branch of state government;

(c) a county, city, town, regional governing body, council, school district, [~~local~~] special district, special service district, or municipal corporation, board, department, commission, council, agency, or any member or employee of them;

(d) any other body that is created by state or local authority, or that is primarily funded by or through state or local authority, or any member or employee of that body;

(e) a law enforcement agency or any member or employee of a law enforcement agency; and

(f) the judiciary and any member or employee of the judiciary.

(12) "Public entity" means a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government.

(13) "Public entity employee" means an employee of a public entity.

(14) "Retaliatory action" means the same as that term is defined in Section 67-19a-101.

(15) "State institution of higher education" means the same as that term is defined in Section 53B-3-102.

(16) "Unethical conduct" means conduct that violates a provision of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

Section 147. Section **71-8-1** is amended to read:

71-8-1. Definitions -- Veterans Affairs.

As used in this title:

(1) "Contractor" means a person who is or may be awarded a government entity contract.

(2) "Council" means the Veterans Advisory Council.

(3) "Department" means the Department of Veterans and Military Affairs.

(4) "Executive director" means the executive director of the Department of Veterans and Military Affairs.

(5) "Government entity" means the state and any county, municipality, [~~local~~] special district, special service district, and any other political subdivision or administrative unit of the state, including state institutions of education.

(6) "Specialist" means a full-time employee of a government entity who is tasked with responding to, and assisting, veterans who are employed by the entity or come to the entity for assistance.

(7) "Veteran" has the same meaning as defined in Section 68-3-12.5.

Section 148. Section **71-10-1** is amended to read:

71-10-1. Definitions.

As used in this chapter:

(1) "Active duty" means active military duty and does not include active duty for training, initial active duty for training, or inactive duty for training.

(2) "Government entity" means the state, any county, municipality, [~~local~~] special district, special service district, or any other political subdivision or administrative unit of the state, including state institutions of education.

(3) "Preference eligible" means:

(a) any individual who has served on active duty in the armed forces for more than 180 consecutive days, or was a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized and who has been separated under honorable conditions;

(b) a veteran with a disability, regardless of the percentage of disability;

(c) the spouse or unmarried widow or widower of a veteran;

(d) a purple heart recipient; or

(e) a retired member of the armed forces.

(4) "Veteran" means the same as that term is defined in Section 68-3-12.5.

(5) "Veteran with a disability" means an individual who has:

(a) been separated or retired from the armed forces under honorable conditions; and

(b) established the existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pension because of a public statute

administered by the federal Department of Veterans Affairs or a military department.

Section 149. Section **72-2-201** is amended to read:

72-2-201. Definitions.

As used in this part:

(1) "Fund" means the State Infrastructure Bank Fund created under Section 72-2-202.

(2) "Infrastructure assistance" means any use of fund money, except an infrastructure loan, to provide financial assistance for transportation projects or publicly owned infrastructure projects, including:

(a) capital reserves and other security for bond or debt instrument financing; or

(b) any letters of credit, lines of credit, bond insurance, or loan guarantees obtained by a public entity to finance transportation projects.

(3) "Infrastructure loan" means a loan of fund money to finance a transportation project or publicly owned infrastructure project.

(4) "Public entity" means a state agency, county, municipality, [~~local~~] special district, special service district, an intergovernmental entity organized under state law, or the military installation development authority created in Section 63H-1-201.

(5) "Publicly owned infrastructure project" means a project to improve sewer or water infrastructure that is owned by a public entity.

(6) "Transportation project":

(a) means a project:

(i) to improve a state or local highway;

(ii) to improve a public transportation facility or nonmotorized transportation facility;

(iii) to construct or improve parking facilities;

(iv) that is subject to a transportation reinvestment zone agreement pursuant to Section 11-13-227 if the state is party to the agreement; or

(v) that is part of a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;

(b) includes the costs of acquisition, construction, reconstruction, rehabilitation, equipping, and fixturing; and

(c) may only include a project if the project is part of:

(i) the statewide long range plan;

(ii) a regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(iii) a local government general plan or economic development initiative.

Section 150. Section **72-14-304** is amended to read:

72-14-304. Unlawful operation of unmanned aircraft near prison facilities -- Penalties.

(1) An individual may not operate an unmanned aircraft system:

(a) to carry or drop any item to or inside the property of a correctional facility; or

(b) in a manner that interferes with the operations or security of a correctional facility.

(2) (a) A violation of Subsection (1)(a) is a third degree felony.

(b) A violation of Subsection (1)(b) is a class B misdemeanor.

(3) An operator of an unmanned aircraft system does not violate Subsection (1) if the operator is:

(a) an employee or contractor working on behalf of a mosquito abatement district created pursuant to [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, or Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(b) acting in the course and scope of the operator's employment.

Section 151. Section **73-2-1 (Superseded 05/03/23)** is amended to read:

73-2-1 (Superseded 05/03/23). State engineer -- Term -- Powers and duties -- Qualification for duties.

(1) There shall be a state engineer.

(2) The state engineer shall:

(a) be appointed by the governor with the advice and consent of the Senate;

(b) hold office for the term of four years and until a successor is appointed; and

(c) have five years experience as a practical engineer or the theoretical knowledge, practical experience, and skill necessary for the position.

(3) (a) The state engineer shall be responsible for the general administrative supervision of the waters of the state and the measurement, appropriation, apportionment, and distribution of those waters.

(b) The state engineer may secure the equitable apportionment and distribution of the

water according to the respective rights of appropriators.

(4) The state engineer shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the purposes and provisions of this title, regarding:

(a) reports of water right conveyances;

(b) the construction of water wells and the licensing of water well drillers;

(c) dam construction and safety;

(d) the alteration of natural streams;

(e) geothermal resource conservation;

(f) enforcement orders and the imposition of fines and penalties;

(g) the duty of water; and

(h) standards for written plans of a public water supplier that may be presented as evidence of reasonable future water requirements under Subsection 73-1-4(2)(f).

(5) The state engineer may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the purposes and provisions of this title, governing:

(a) water distribution systems and water commissioners;

(b) water measurement and reporting;

(c) groundwater recharge and recovery;

(d) wastewater reuse;

(e) the form, content, and processing procedure for a claim under Section 73-5-13 to surface or underground water that is not represented by a certificate of appropriation;

(f) the form and content of a proof submitted to the state engineer under Section 73-3-16;

(g) the determination of water rights; or

(h) the form and content of applications and related documents, maps, and reports.

(6) The state engineer may bring suit in courts of competent jurisdiction to:

(a) enjoin the unlawful appropriation, diversion, and use of surface and underground water without first seeking redress through the administrative process;

(b) prevent theft, waste, loss, or pollution of surface and underground waters;

(c) enable the state engineer to carry out the duties of the state engineer's office; and

(d) enforce administrative orders and collect fines and penalties.

(7) The state engineer may:

(a) upon request from the board of trustees of an irrigation district under Title 17B, Chapter 2a, Part 5, Irrigation District Act, or another [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, that operates an irrigation water system, cause a water survey to be made of the lands proposed to be annexed to the district in order to determine and allot the maximum amount of water that could be beneficially used on the land, with a separate survey and allotment being made for each 40-acre or smaller tract in separate ownership; and

(b) upon completion of the survey and allotment under Subsection (7)(a), file with the district board a return of the survey and report of the allotment.

(8) (a) The state engineer may establish water distribution systems and define the water distribution systems' boundaries.

(b) The water distribution systems shall be formed in a manner that:

(i) secures the best protection to the water claimants; and

(ii) is the most economical for the state to supervise.

(9) The state engineer may conduct studies of current and novel uses of water in the state.

(10) Notwithstanding Subsection (4)(b), the state engineer may not on the basis of the depth of a water production well exempt the water production well from regulation under this title or rules made under this title related to the:

(a) drilling, constructing, deepening, repairing, renovating, cleaning, developing, testing, disinfecting, or abandonment of a water production well; or

(b) installation or repair of a pump for a water production well.

Section 152. Section **73-2-1 (Effective 05/03/23)** is amended to read:

73-2-1 (Effective 05/03/23). State engineer -- Term -- Powers and duties -- Qualification for duties.

(1) There shall be a state engineer.

(2) The state engineer shall:

(a) be appointed by the governor with the advice and consent of the Senate;

(b) hold office for the term of four years and until a successor is appointed; and

(c) have five years experience as a practical engineer or the theoretical knowledge, practical experience, and skill necessary for the position.

(3) (a) The state engineer shall be responsible for the general administrative supervision of the waters of the state and the measurement, appropriation, apportionment, and distribution of those waters.

(b) The state engineer may secure the equitable apportionment and distribution of the water according to the respective rights of appropriators.

(4) The state engineer shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the purposes and provisions of this title, regarding:

(a) reports of water right conveyances;

(b) the construction of water wells and the licensing of water well drillers;

(c) dam construction and safety;

(d) the alteration of natural streams;

(e) geothermal resource conservation;

(f) enforcement orders and the imposition of fines and penalties;

(g) the duty of water; and

(h) standards for written plans of a public water supplier that may be presented as evidence of reasonable future water requirements under Subsection 73-1-4(2)(f).

(5) The state engineer may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the purposes and provisions of this title, governing:

(a) water distribution systems and water commissioners;

(b) water measurement and reporting;

(c) groundwater recharge and recovery;

(d) wastewater reuse;

(e) the form, content, and processing procedure for a claim under Section 73-5-13 to surface or underground water that is not represented by a certificate of appropriation;

(f) the form and content of a proof submitted to the state engineer under Section 73-3-16;

(g) the determination of water rights;

(h) preferences of water rights under Section 73-3-21.5; or

(i) the form and content of applications and related documents, maps, and reports.

(6) The state engineer may bring suit in courts of competent jurisdiction to:

(a) enjoin the unlawful appropriation, diversion, and use of surface and underground water without first seeking redress through the administrative process;

(b) prevent theft, waste, loss, or pollution of surface and underground waters;

(c) enable the state engineer to carry out the duties of the state engineer's office; and

(d) enforce administrative orders and collect fines and penalties.

(7) The state engineer may:

(a) upon request from the board of trustees of an irrigation district under Title 17B, Chapter 2a, Part 5, Irrigation District Act, or another [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, that operates an irrigation water system, cause a water survey to be made of the lands proposed to be annexed to the district in order to determine and allot the maximum amount of water that could be beneficially used on the land, with a separate survey and allotment being made for each 40-acre or smaller tract in separate ownership; and

(b) upon completion of the survey and allotment under Subsection (7)(a), file with the district board a return of the survey and report of the allotment.

(8) (a) The state engineer may establish water distribution systems and define the water distribution systems' boundaries.

(b) The water distribution systems shall be formed in a manner that:

(i) secures the best protection to the water claimants; and

(ii) is the most economical for the state to supervise.

(9) The state engineer may conduct studies of current and novel uses of water in the state.

(10) Notwithstanding Subsection (4)(b), the state engineer may not on the basis of the depth of a water production well exempt the water production well from regulation under this title or rules made under this title related to the:

(a) drilling, constructing, deepening, repairing, renovating, cleaning, developing,

testing, disinfecting, or abandonment of a water production well; or

(b) installation or repair of a pump for a water production well.

Section 153. Section **73-5-15** is amended to read:

73-5-15. Groundwater management plan.

(1) As used in this section:

(a) "Critical management area" means a groundwater basin in which the groundwater withdrawals consistently exceed the safe yield.

(b) "Safe yield" means the amount of groundwater that can be withdrawn from a groundwater basin over a period of time without exceeding the long-term recharge of the basin or unreasonably affecting the basin's physical and chemical integrity.

(2) (a) The state engineer may regulate groundwater withdrawals within a specific groundwater basin by adopting a groundwater management plan in accordance with this section for any groundwater basin or aquifer or combination of hydrologically connected groundwater basins or aquifers.

(b) The objectives of a groundwater management plan are to:

(i) limit groundwater withdrawals to safe yield;

(ii) protect the physical integrity of the aquifer; and

(iii) protect water quality.

(c) The state engineer shall adopt a groundwater management plan for a groundwater basin if more than one-third of the water right owners in the groundwater basin request that the state engineer adopt a groundwater management plan.

(3) (a) In developing a groundwater management plan, the state engineer may consider:

(i) the hydrology of the groundwater basin;

(ii) the physical characteristics of the groundwater basin;

(iii) the relationship between surface water and groundwater, including whether the groundwater should be managed in conjunction with hydrologically connected surface waters;

(iv) the conjunctive management of water rights to facilitate and coordinate the lease, purchase, or voluntary use of water rights subject to the groundwater management plan;

(v) the geographic spacing and location of groundwater withdrawals;

(vi) water quality;

(vii) local well interference; and

(viii) other relevant factors.

(b) The state engineer shall base the provisions of a groundwater management plan on the principles of prior appropriation.

(c) (i) The state engineer shall use the best available scientific method to determine safe yield.

(ii) As hydrologic conditions change or additional information becomes available, safe yield determinations made by the state engineer may be revised by following the procedures listed in Subsection (5).

(4) (a) (i) Except as provided in Subsection (4)(b), the withdrawal of water from a groundwater basin shall be limited to the basin's safe yield.

(ii) Before limiting withdrawals in a groundwater basin to safe yield, the state engineer shall:

(A) determine the groundwater basin's safe yield; and

(B) adopt a groundwater management plan for the groundwater basin.

(iii) If the state engineer determines that groundwater withdrawals in a groundwater basin exceed the safe yield, the state engineer shall regulate groundwater rights in that groundwater basin based on the priority date of the water rights under the groundwater management plan, unless a voluntary arrangement exists under Subsection (4)(c) that requires a different distribution.

(iv) A groundwater management plan shall include a list of each groundwater right in the proposed groundwater management area known to the state engineer identifying the water right holder, the land to which the groundwater right is appurtenant, and any identification number the state engineer uses in the administration of water rights.

(b) When adopting a groundwater management plan for a critical management area, the state engineer shall, based on economic and other impacts to an individual water user or a local community caused by the implementation of safe yield limits on withdrawals, allow gradual implementation of the groundwater management plan.

(c) (i) In consultation with the state engineer, water users in a groundwater basin may agree to participate in a voluntary arrangement for managing withdrawals at any time, either before or after a determination that groundwater withdrawals exceed the groundwater basin's safe yield.

(ii) A voluntary arrangement under Subsection (4)(c)(i) shall be consistent with other law.

(iii) The adoption of a voluntary arrangement under this Subsection (4)(c) by less than all of the water users in a groundwater basin does not affect the rights of water users who do not agree to the voluntary arrangement.

(5) To adopt a groundwater management plan, the state engineer shall:

(a) give notice as specified in Subsection (7) at least 30 days before the first public meeting held in accordance with Subsection (5)(b):

(i) that the state engineer proposes to adopt a groundwater management plan;

(ii) describing generally the land area proposed to be included in the groundwater management plan; and

(iii) stating the location, date, and time of each public meeting to be held in accordance with Subsection (5)(b);

(b) hold one or more public meetings in the geographic area proposed to be included within the groundwater management plan to:

(i) address the need for a groundwater management plan;

(ii) present any data, studies, or reports that the state engineer intends to consider in preparing the groundwater management plan;

(iii) address safe yield and any other subject that may be included in the groundwater management plan;

(iv) outline the estimated administrative costs, if any, that groundwater users are likely to incur if the plan is adopted; and

(v) receive any public comments and other information presented at the public meeting, including comments from any of the entities listed in Subsection (7)(a)(iii);

(c) receive and consider written comments concerning the proposed groundwater management plan from any person for a period determined by the state engineer of not less than 60 days after the day on which the notice required by Subsection (5)(a) is given;

(d) (i) at least 60 days prior to final adoption of the groundwater management plan, publish notice:

(A) that a draft of the groundwater management plan has been proposed; and

(B) specifying where a copy of the draft plan may be reviewed; and

(ii) promptly provide a copy of the draft plan in printed or electronic form to each of the entities listed in Subsection (7)(a)(iii) that makes written request for a copy; and

(e) provide notice of the adoption of the groundwater management plan.

(6) A groundwater management plan shall become effective on the date notice of adoption is completed under Subsection (7), or on a later date if specified in the plan.

(7) (a) A notice required by this section shall be:

(i) published:

(A) once a week for two successive weeks in a newspaper of general circulation in each county that encompasses a portion of the land area proposed to be included within the groundwater management plan; and

(B) in accordance with Section 45-1-101 for two weeks;

(ii) published conspicuously on the state engineer's website; and

(iii) mailed to each of the following that has within its boundaries a portion of the land area to be included within the proposed groundwater management plan:

(A) county;

(B) incorporated city or town;

(C) a [~~local~~] special district created to acquire or assess a groundwater right under [~~Title 17B, Chapter 1, Provisions Applicable to All Local Districts~~] Title 17B, Chapter 1, Provisions Applicable to All Special Districts;

(D) improvement district under Title 17B, Chapter 2a, Part 4, Improvement District Act;

(E) service area, under Title 17B, Chapter 2a, Part 9, Service Area Act;

(F) drainage district, under Title 17B, Chapter 2a, Part 2, Drainage District Act;

(G) irrigation district, under Title 17B, Chapter 2a, Part 5, Irrigation District Act;

(H) metropolitan water district, under Title 17B, Chapter 2a, Part 6, Metropolitan Water District Act;

(I) special service district providing water, sewer, drainage, or flood control services, under Title 17D, Chapter 1, Special Service District Act;

(J) water conservancy district, under Title 17B, Chapter 2a, Part 10, Water Conservancy District Act; and

(K) conservation district, under Title 17D, Chapter 3, Conservation District Act.

(b) A notice required by this section is effective upon substantial compliance with Subsections (7)(a)(i) through (iii).

(8) A groundwater management plan may be amended in the same manner as a groundwater management plan may be adopted under this section.

(9) The existence of a groundwater management plan does not preclude any otherwise eligible person from filing any application or challenging any decision made by the state engineer within the affected groundwater basin.

(10) (a) A person aggrieved by a groundwater management plan may challenge any aspect of the groundwater management plan by filing a complaint within 60 days after the adoption of the groundwater management plan in the district court for any county in which the groundwater basin is found.

(b) Notwithstanding Subsection (9), a person may challenge the components of a groundwater management plan only in the manner provided by Subsection (10)(a).

(c) An action brought under this Subsection (10) is reviewed de novo by the district court.

(d) A person challenging a groundwater management plan under this Subsection (10) shall join the state engineer as a defendant in the action challenging the groundwater management plan.

(e) (i) Within 30 days after the day on which a person files an action challenging any aspect of a groundwater management plan under Subsection (10)(a), the person filing the action shall publish notice of the action:

(A) in a newspaper of general circulation in the county in which the district court is located; and

(B) in accordance with Section 45-1-101 for two weeks.

(ii) The notice required by Subsection (10)(e)(i)(A) shall be published once a week for two consecutive weeks.

(iii) The notice required by Subsection (10)(e)(i) shall:

(A) identify the groundwater management plan the person is challenging;

(B) identify the case number assigned by the district court;

(C) state that a person affected by the groundwater management plan may petition the district court to intervene in the action challenging the groundwater management plan; and

(D) list the address for the clerk of the district court in which the action is filed.

(iv) (A) Any person affected by the groundwater management plan may petition to intervene in the action within 60 days after the day on which notice is last published under Subsections (10)(e)(i) and (ii).

(B) The district court's treatment of a petition to intervene under this Subsection (10)(e)(iv) is governed by the Utah Rules of Civil Procedure.

(v) A district court in which an action is brought under Subsection (10)(a) shall consolidate all actions brought under that subsection and include in the consolidated action any person whose petition to intervene is granted.

(11) A groundwater management plan adopted or amended in accordance with this section is exempt from the requirements in Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(12) (a) Recharge and recovery projects permitted under Chapter 3b, Groundwater Recharge and Recovery Act, are exempted from this section.

(b) In a critical management area, the artificial recharge of a groundwater basin that uses surface water naturally tributary to the groundwater basin by a [~~local~~] special district created under Subsection 17B-1-202(1)(a)(xiii), in accordance with Chapter 3b, Groundwater Recharge and Recovery Act, constitutes a beneficial use of the water under Section 73-1-3 if:

(i) the recharge is done during the time the area is designated as a critical management area;

(ii) the recharge is done with a valid recharge permit;

(iii) the recharged water is not recovered under a recovery permit; and

(iv) the recharged water is used to replenish the groundwater basin.

(13) Nothing in this section may be interpreted to require the development, implementation, or consideration of a groundwater management plan as a prerequisite or condition to the exercise of the state engineer's enforcement powers under other law, including powers granted under Section 73-2-25.

(14) A groundwater management plan adopted in accordance with this section may not apply to the dewatering of a mine.

(15) (a) A groundwater management plan adopted by the state engineer before May 1, 2006, remains in force and has the same legal effect as it had on the day on which it was

adopted by the state engineer.

(b) If a groundwater management plan that existed before May 1, 2006, is amended on or after May 1, 2006, the amendment is subject to this section's provisions.

Section 154. Section **73-10-21** is amended to read:

73-10-21. Loans for water systems -- Eligible projects.

This chapter shall apply to all eligible projects of incorporated cities and towns, [~~local~~] special districts under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, assessment areas under Title 11, Chapter 42, Assessment Area Act, and special service districts under Title 17D, Chapter 1, Special Service District Act. Eligible projects are those for the acquisition, improvement, or construction of water systems used for the production, supply, transmission, storage, distribution, or treatment of water for cities, towns, metropolitan water districts, water conservancy districts, improvement districts, special improvement districts, or special service districts, or the improvement or extension of such systems.

Section 155. Section **76-1-101.5** is amended to read:

76-1-101.5. Definitions.

Unless otherwise provided, as used in this title:

(1) "Act" means a voluntary bodily movement and includes speech.

(2) "Actor" means a person whose criminal responsibility is in issue in a criminal action.

(3) "Affinity" means a relationship by marriage.

(4) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

(5) "Conduct" means an act or omission.

(6) "Consanguinity" means a relationship by blood to the first or second degree, including an individual's parent, grandparent, sibling, child, aunt, uncle, niece, or nephew.

(7) "Dangerous weapon" means:

(a) any item capable of causing death or serious bodily injury; or

(b) a facsimile or representation of the item, if:

(i) the actor's use or apparent intended use of the item leads the victim to reasonably believe the item is likely to cause death or serious bodily injury; or

(ii) the actor represents to the victim verbally or in any other manner that the actor is in control of such an item.

(8) "Grievous sexual offense" means:

(a) rape, Section 76-5-402;

(b) rape of a child, Section 76-5-402.1;

(c) object rape, Section 76-5-402.2;

(d) object rape of a child, Section 76-5-402.3;

(e) forcible sodomy, Subsection 76-5-403(2);

(f) sodomy on a child, Section 76-5-403.1;

(g) aggravated sexual abuse of a child, Section 76-5-404.3;

(h) aggravated sexual assault, Section 76-5-405;

(i) any felony attempt to commit an offense described in Subsections (8)(a) through (h); or

(j) an offense in another state, territory, or district of the United States that, if committed in Utah, would constitute an offense described in Subsections (8)(a) through (i).

(9) "Offense" means a violation of any penal statute of this state.

(10) "Omission" means a failure to act when there is a legal duty to act and the actor is capable of acting.

(11) "Person" means an individual, public or private corporation, government, partnership, or unincorporated association.

(12) "Possess" means to have physical possession of or to exercise dominion or control over tangible property.

(13) "Public entity" means:

(a) the state, or an agency, bureau, office, department, division, board, commission, institution, laboratory, or other instrumentality of the state;

(b) a political subdivision of the state, including a county, municipality, interlocal entity, [~~local~~] special district, special service district, school district, or school board;

(c) an agency, bureau, office, department, division, board, commission, institution, laboratory, or other instrumentality of a political subdivision of the state; or

(d) another entity that:

(i) performs a public function; and

(ii) is authorized to hold, spend, transfer, disburse, use, or receive public money.

(14) (a) "Public money" or "public funds" means money, funds, or accounts, regardless of the source from which they are derived, that:

(i) are owned, held, or administered by an entity described in Subsections (13)(a) through (c); or

(ii) are in the possession of an entity described in Subsection (13)(d)(i) for the purpose of performing a public function.

(b) "Public money" or "public funds" includes money, funds, or accounts described in Subsection (14)(a) after the money, funds, or accounts are transferred by a public entity to an independent contractor of the public entity.

(c) "Public money" or "public funds" remains public money or public funds while in the possession of an independent contractor of a public entity for the purpose of providing a program or service for, or on behalf of, the public entity.

(15) "Public officer" means:

(a) an elected official of a public entity;

(b) an individual appointed to, or serving an unexpired term of, an elected official of a public entity;

(c) a judge of a court of record or not of record, including justice court judges; or

(d) a member of the Board of Pardons and Parole.

(16) (a) "Public servant" means:

(i) a public officer;

(ii) an appointed official, employee, consultant, or independent contractor of a public entity; or

(iii) a person hired or paid by a public entity to perform a government function.

(b) Public servant includes a person described in Subsection (16)(a) upon the person's election, appointment, contracting, or other selection, regardless of whether the person has begun to officially occupy the position of a public servant.

(17) "Serious bodily injury" means bodily injury that creates or causes serious permanent disfigurement, protracted loss or impairment of the function of any bodily member or organ, or creates a substantial risk of death.

(18) "Substantial bodily injury" means bodily injury, not amounting to serious bodily

injury, that creates or causes protracted physical pain, temporary disfigurement, or temporary loss or impairment of the function of any bodily member or organ.

(19) "Writing" or "written" includes any handwriting, typewriting, printing, electronic storage or transmission, or any other method of recording information or fixing information in a form capable of being preserved.

Section 156. Section **77-23d-102** is amended to read:

77-23d-102. Definitions.

As used in this chapter:

(1) "Government entity" means the state, a county, a municipality, a higher education institution, a [~~local~~] special district, a special service district, or any other political subdivision of the state or an administrative subunit of any political subdivision, including a law enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission, or an individual acting or purporting to act for or on behalf of a state or local agency.

(2) "Imaging surveillance device" means a device that uses radar, sonar, infrared, or other remote sensing or detection technology used by the individual operating the device to obtain information, not otherwise directly observable, about individuals, items, or activities within a closed structure.

(3) "Target" means a person or a structure upon which a government entity intentionally collects or attempts to collect information using an imaging surveillance device.

Section 157. Section **77-38-601** is amended to read:

77-38-601. Definitions.

As used in this part:

(1) "Abuse" means any of the following:

(a) "abuse" as that term is defined in Section 76-5-111 or 80-1-102; or

(b) "child abuse" as that term is defined in Section 76-5-109.

(2) "Actual address" means the residential street address of the program participant that is stated in a program participant's application for enrollment or on a notice of a change of address under Section 77-38-610.

(3) "Assailant" means an individual who commits or threatens to commit abuse, human trafficking, domestic violence, stalking, or a sexual offense against an applicant for the

program or a minor or incapacitated individual residing with an applicant for the program.

(4) "Assigned address" means an address designated by the commission and assigned to a program participant.

(5) "Authorization card" means a card issued by the commission that identifies a program participant as enrolled in the program with the program participant's assigned address and the date on which the program participant will no longer be enrolled in the program.

(6) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(7) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(8) "Human trafficking" means a human trafficking offense under Section 76-5-308.

(9) "Incapacitated individual" means an individual who is incapacitated, as defined in Section 75-1-201.

(10) (a) "Mail" means first class letters or flats delivered by the United States Postal Service, including priority, express, and certified mail.

(b) "Mail" does not include a package, parcel, periodical, or catalogue, unless the package, parcel, periodical, or catalogue is clearly identifiable as:

(i) being sent by a federal, state, or local agency or another government entity; or

(ii) a pharmaceutical or medical item.

(11) "Minor" means an individual who is younger than 18 years old.

(12) "Notification form" means a form issued by the commission that a program participant may send to a person demonstrating that the program participant is enrolled in the program.

(13) "Program" means the Address Confidentiality Program created in Section 77-38-602.

(14) "Program assistant" means an individual designated by the commission under Section 77-38-604 to assist an applicant or program participant.

(15) "Program participant" means an individual who is enrolled under Section 77-38-606 by the commission to participate in the program.

(16) "Record" means the same as that term is defined in Section 63G-2-103.

(17) "Sexual offense" means:

(a) a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses; or

(b) a sexual exploitation offense under Title 76, Chapter 5b, Part 2, Sexual Exploitation.

(18) "Stalking" means the same as that term is defined in Section 76-5-106.5.

(19) "State or local government entity" means a county, municipality, higher education institution, [~~local~~] special district, special service district, or any other political subdivision of the state or an administrative subunit of the executive, legislative, or judicial branch of this state, including:

(a) a law enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission; or

(b) an individual acting or purporting to act for or on behalf of a state or local entity, including an elected or appointed public official.

(20) "Victim" means a victim of abuse, domestic violence, human trafficking, stalking, or sexual assault.

Section 158. Section **78B-2-216** is amended to read:

78B-2-216. Adverse possession of certain real property.

(1) As used in this section:

(a) "Government entity" means a town, city, county, metropolitan water district, or [~~local~~] special district.

(b) "Water facility" means any improvement or structure used, or intended to be used, to divert, convey, store, measure, or treat water.

(2) Except as provided in Subsection (3), a person may not acquire by adverse possession, prescriptive use, or acquiescence any right in or title to any real property:

(a) held by a government entity; and

(b) designated for any present or future public use, including:

(i) a street;

(ii) a lane;

(iii) an avenue;

(iv) an alley;

(v) a park;

(vi) a public square;

(vii) a water facility; or

(viii) a water conveyance right-of-way or water conveyance corridor.

(3) Notwithstanding Subsection (2) and subject to Subsection (4), a person may acquire title if:

(a) a government entity sold, disposed of, or conveyed the right in, or title to, the real property to a purchaser for valuable consideration; and

(b) the purchaser or the purchaser's grantees or successors in interest have been in exclusive, continuous, and adverse possession of the real property for at least seven consecutive years after the day on which the real property was sold, disposed of, or conveyed as described in Subsection (3)(a).

(4) A person who acquires title under Subsection (3) is subject to all other applicable provisions of law.

Section 159. Section **78B-4-509** is amended to read:

78B-4-509. Inherent risks of certain recreational activities -- Claim barred against county or municipality -- No effect on duty or liability of person participating in recreational activity or other person.

(1) As used in this section:

(a) "Inherent risks" means any danger, condition, and potential for personal injury or property damage that is an integral and natural part of participating in a recreational activity.

(b) "Municipality" means the same as that term is defined in Section 10-1-104.

(c) "Person" means:

(i) an individual, regardless of age, maturity, ability, capability, or experience; and

(ii) a corporation, partnership, limited liability company, or any other form of business enterprise.

(d) "Recreational activity" includes a rodeo, an equestrian activity, skateboarding, skydiving, para gliding, hang gliding, roller skating, ice skating, fishing, hiking, walking, running, jogging, bike riding, scooter riding, or in-line skating on property:

(i) owned, leased, or rented by, or otherwise made available to:

(A) with respect to a claim against a county, the county; and

(B) with respect to a claim against a municipality, the municipality; and

(ii) intended for the specific use in question.

(2) Notwithstanding Sections 78B-5-817 through 78B-5-823, no person may make a

claim against or recover from any of the following entities for personal injury or property damage resulting from any of the inherent risks of participating in a recreational activity:

(a) a county, municipality, [~~local~~] special district under [~~Title 17B, Limited Purpose Local Government Entities - Local Districts~~] Title 17B, Limited Purpose Local Government Entities - Special Districts, or special service district under Title 17D, Chapter 1, Special Service District Act; or

(b) the owner of property that is leased, rented, or otherwise made available to a county, municipality, [~~local~~] special district, or special service district for the purpose of providing or operating a recreational activity.

(3) (a) Nothing in this section may be construed to relieve a person participating in a recreational activity from an obligation that the person would have in the absence of this section to exercise due care or from the legal consequences of a failure to exercise due care.

(b) Nothing in this section may be construed to relieve any other person from an obligation that the person would have in the absence of this section to exercise due care or from the legal consequences of a failure to exercise due care.

Section 160. Section **78B-6-2301** is amended to read:

78B-6-2301. Definitions.

As used in this part:

(1) "Directive" means an ordinance, regulation, measure, rule, enactment, order, or policy issued, enacted, or required by a local or state governmental entity.

(2) "Firearm" means the same as that term is defined in Section 53-5a-102.

(3) "Legislative firearm preemption" means the preemption provided for in Sections 53-5a-102 and 76-10-500.

(4) "Local or state governmental entity" means:

(a) a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state, including the Utah Board of Higher Education, each institution of higher education, and the boards of trustees of each higher education institution; or

(b) a county, city, town, metro township, [~~local~~] special district, local education agency, public school, school district, charter school, special service district under Title 17D, Chapter 1, Special Service District Act, an entity created by interlocal cooperation agreement

under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute as a political subdivision of the state.

Section 161. **Revisor instructions.**

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if H.B. 22, Local District Amendments, does not pass.

Section 162. **Effective date.**

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