

SB0097S04 compared with SB0097S03

~~text~~ shows text that was in SB0097S03 but was deleted in SB0097S04.

text shows text that was not in SB0097S03 but was inserted into SB0097S04.

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.

Representative James A. Dunnigan proposes the following substitute bill:

OPERATIONS OF STATE GOVERNMENT

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill modifies and repeals provisions related to government operations.

Highlighted Provisions:

This bill:

- ▶ modifies or repeals provisions related to legislative process that are intended for incorporation into legislative rules;
- ▶ gives the Legislative Management Committee the authority to reappoint an individual as the legislative auditor general, the legislative fiscal analyst, the director of the Office of Legislative Research and General Counsel, or the legislative general counsel;
- ▶ changes the membership of the Research and General Counsel Subcommittee, and the Budget Subcommittee;

SB0097S04 compared with SB0097S03

- ▶ modifies the duties of the Subcommittee on Oversight;
- ▶ repeals the statewide elected official summit;
- ▶ addresses the State Capitol Preservation Board's, the governor's, and the Legislature's authority over areas on capitol hill; and
- ▶ updates inconsistent terminology.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17B-2a-818.5, as last amended by Laws of Utah 2023, Chapter 327

19-1-206, as last amended by Laws of Utah 2023, Chapter 327

26A-1-108, as last amended by Laws of Utah 2022, Chapter 39

26A-1-114, as last amended by Laws of Utah 2023, Chapters 90, 327

26B-1-309, as renumbered and amended by Laws of Utah 2023, Chapter 305

26B-3-909, as renumbered and amended by Laws of Utah 2023, Chapter 306

32B-4-102, as last amended by Laws of Utah 2016, Chapter 245

32B-4-415, as last amended by Laws of Utah 2022, Chapter 447

36-2-2, as last amended by Laws of Utah 2010, Chapter 133

36-11-102, as last amended by Laws of Utah 2023, Chapter 16

36-12-1, as last amended by Laws of Utah 2000, Chapter 104

36-12-6, as last amended by Laws of Utah 2016, Chapter 403

36-12-7, as last amended by Laws of Utah 2022, Chapter 222

36-12-8, as last amended by Laws of Utah 2016, Chapter 403

36-12-8.1, as last amended by Laws of Utah 2018, Chapter 254

36-12-9.5, as enacted by Laws of Utah 2014, Chapter 167

36-12-19, as last amended by Laws of Utah 1989, Chapter 174

41-6a-1401, as last amended by Laws of Utah 2016, Chapter 245

49-11-406, as last amended by Laws of Utah 2021, Chapters 64, 282, 344, and 382

53-1-102, as last amended by Laws of Utah 2021, Chapters 349, 360

SB0097S04 compared with SB0097S03

53-1-109, as last amended by Laws of Utah 2005, Chapter 2

53-8-105, as last amended by Laws of Utah 2023, Chapter 432

53D-2-203, as enacted by Laws of Utah 2018, Chapter 448

55-5-6, as last amended by Laws of Utah 2001, Chapter 9

63A-5b-102, as last amended by Laws of Utah 2022, Chapter 421

63A-5b-303 (Superseded 07/01/24), as last amended by Laws of Utah 2023, Chapter 329

63A-5b-303 (Effective 07/01/24), as last amended by Laws of Utah 2023, Chapters 329, 394

63A-5b-607, as last amended by Laws of Utah 2023, Chapter 329

63G-1-503 (Effective 03/09/24), as enacted by Laws of Utah 2023, Chapter 451

63G-1-702, as enacted by Laws of Utah 2013, Chapter 90

63J-1-602.2 (Superseded 07/01/24), as last amended by Laws of Utah 2023, Chapters 33, 34, 134, 139, 180, 212, 246, 330, 345, 354, and 534

63J-1-602.2 (Effective 07/01/24), as last amended by Laws of Utah 2023, Chapters 33, 34, 134, 139, 180, 212, 246, 310, 330, 345, 354, and 534

72-6-107.5, as last amended by Laws of Utah 2023, Chapter 330

79-2-404, as last amended by Laws of Utah 2023, Chapter 330

ENACTS:

63O-1-101, Utah Code Annotated 1953

63O-1-201, Utah Code Annotated 1953

63O-1-202, Utah Code Annotated 1953

63O-1-203, Utah Code Annotated 1953

63O-1-204, Utah Code Annotated 1953

63O-1-205, Utah Code Annotated 1953

63O-1-206, Utah Code Annotated 1953

63O-1-301, Utah Code Annotated 1953

63O-1-302, Utah Code Annotated 1953

63O-1-303, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

63O-2-101, (Renumbered from 63C-9-102, as last amended by Laws of Utah 2006,

SB0097S04 compared with SB0097S03

Chapter 256)

63O-2-201, (Renumbered from 63C-9-201, as last amended by Laws of Utah 2006,
Chapter 256)

63O-2-202, (Renumbered from 63C-9-202, as last amended by Laws of Utah 2014,
Chapter 387)

63O-2-301, (Renumbered from 63C-9-301, as last amended by Laws of Utah 2023,
Chapter 160)

63O-2-401, (Renumbered from 63C-9-401, as last amended by Laws of Utah 2006,
Chapter 256)

63O-2-402, (Renumbered from 63C-9-402, as last amended by Laws of Utah 2015,
Chapter 314)

63O-2-403, (Renumbered from 63C-9-403, as last amended by Laws of Utah 2023,
Chapter 329)

63O-2-501, (Renumbered from 63C-9-501, as last amended by Laws of Utah 2023,
Chapter 534)

63O-2-601, (Renumbered from 63C-9-601, as last amended by Laws of Utah 2023,
Chapter 160)

63O-2-602, (Renumbered from 63C-9-602, as enacted by Laws of Utah 1998, Chapter
285)

REPEALS:

36-2-1, as last amended by Laws of Utah 2015, Chapter 71

36-5-1, as last amended by Laws of Utah 2015, Chapter 314

36-12-2, as last amended by Laws of Utah 1998, Chapter 226

36-12-3, as last amended by Laws of Utah 2002, Chapter 39

36-12-4, as last amended by Laws of Utah 1988, Chapter 6

36-12-5, as last amended by Laws of Utah 2013, Chapter 177

36-21-1, as last amended by Laws of Utah 2020, Chapter 365

36-34-101, as enacted by Laws of Utah 2023, Chapter 207

63C-9-101, as enacted by Laws of Utah 1998, Chapter 285

67-1-16, as enacted by Laws of Utah 2008, Chapter 10

SB0097S04 compared with SB0097S03

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

Section 1. Section **17B-2a-818.5** is amended to read:

17B-2a-818.5. Contracting powers of public transit districts -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the public transit district on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or

SB0097S04 compared with SB0097S03

greater than \$2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the public transit district on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the public transit district that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employee's dependents during the duration of the contract by submitting to the public transit district a written statement that:

(i) the contractor offers qualified health coverage that complies with Section 26B-3-909;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

SB0097S04 compared with SB0097S03

(A) the actuary or underwriter selected by an administrator as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the public transit district.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section 26B-3-909;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage as described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i) during the duration of the subcontract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The public transit district shall adopt ordinances:

SB0097S04 compared with SB0097S03

(a) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section [~~63C-9-403~~] 63O-2-403; and

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(b) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the public transit district or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the public transit district upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the public transit district upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the district shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the

SB0097S04 compared with SB0097S03

Department of Health and Human Services, in accordance with Subsection 26B-3-909(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(b)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) a department or division determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26B-1-309.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

SB0097S04 compared with SB0097S03

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 2. Section **19-1-206** is amended to read:

19-1-206. Contracting powers of department -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by, or delegated to, the department, or a division or board of the department, on or after July 1, 2009, if the prime

SB0097S04 compared with SB0097S03

contract is in an aggregate amount equal to or greater than \$2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by, or delegated to, the department, or a division or board of the department, on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

(3) This section does not apply to contracts entered into by the department or a division or board of the department if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract or agreement is between:

(i) the department or a division or board of the department; and

(ii) (A) another agency of the state;

(B) the federal government;

(C) another state;

(D) an interstate agency;

(E) a political subdivision of this state; or

(F) a political subdivision of another state;

(c) the executive director determines that applying the requirements of this section to a particular contract interferes with the effective response to an immediate health and safety threat from the environment; or

(d) the contract is:

(i) a sole source contract; or

(ii) an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the executive director a written statement that:

(i) the contractor offers qualified health coverage that complies with Section 26B-3-909;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

SB0097S04 compared with SB0097S03

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the department.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section 26B-3-909;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

SB0097S04 compared with SB0097S03

(d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) a public transit district in accordance with Section 17B-2a-818.5;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section [~~63C-9-403~~ 63O-2-403];

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review and General Oversight Committee;

and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a

SB0097S04 compared with SB0097S03

written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) notwithstanding Section 19-1-303, monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for an employee and the dependents of an employee of the contractor or subcontractor who was not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of Health and Human Services, in accordance with Subsection 26B-3-909(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26B-1-309.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

SB0097S04 compared with SB0097S03

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 3. Section **26A-1-108** is amended to read:

26A-1-108. Jurisdiction and duties of local health departments -- Registration as a limited purpose entity.

(1) (a) Except as provided in Subsection (1)(b), a local health department has jurisdiction in all unincorporated and incorporated areas of the county or counties in which it is established and shall enforce state health laws, Department of Health, Department of Environmental Quality, and local health department rules, regulations, and standards within those areas.

(b) Notwithstanding Subsection (1)(a), a local health department's jurisdiction or authority to issue an order of constraint pursuant to a declared public health emergency does not apply to any facility, property, or area owned or leased by the state, including [~~the capitol hill complex, as that term is defined in Section 63C-9-102~~] capitol hill, as defined in Section 63O-1-101.

(2) (a) Each local health department shall register and maintain the local health

SB0097S04 compared with SB0097S03

department's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A local health department that fails to comply with Subsection (2)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 4. Section **26A-1-114** is amended to read:

26A-1-114. Powers and duties of departments.

(1) Subject to Subsections (7), (8), and (11), a local health department may:

(a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances, department rules, and local health department standards and regulations relating to public health and sanitation, including the plumbing code administered by the Division of Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code Administration Act, and under Title 26B, Chapter 7, Part 4, General Sanitation and Food Safety, in all incorporated and unincorporated areas served by the local health department;

(b) establish, maintain, and enforce isolation and quarantine, and exercise physical control over property and over individuals as the local health department finds necessary for the protection of the public health;

(c) establish and maintain medical, environmental, occupational, and other laboratory services considered necessary or proper for the protection of the public health;

(d) establish and operate reasonable health programs or measures not in conflict with state law which:

(i) are necessary or desirable for the promotion or protection of the public health and the control of disease; or

(ii) may be necessary to ameliorate the major risk factors associated with the major causes of injury, sickness, death, and disability in the state;

(e) close theaters, schools, and other public places and prohibit gatherings of people when necessary to protect the public health;

(f) abate nuisances or eliminate sources of filth and infectious and communicable diseases affecting the public health and bill the owner or other person in charge of the premises upon which this nuisance occurs for the cost of abatement;

(g) make necessary sanitary and health investigations and inspections on the local health department's own initiative or in cooperation with the Department of Health and Human Services or the Department of Environmental Quality, or both, as to any matters affecting the

SB0097S04 compared with SB0097S03

public health;

(h) pursuant to county ordinance or interlocal agreement:

(i) establish and collect appropriate fees for the performance of services and operation of authorized or required programs and duties;

(ii) accept, use, and administer all federal, state, or private donations or grants of funds, property, services, or materials for public health purposes; and

(iii) make agreements not in conflict with state law which are conditional to receiving a donation or grant;

(i) prepare, publish, and disseminate information necessary to inform and advise the public concerning:

(i) the health and wellness of the population, specific hazards, and risk factors that may adversely affect the health and wellness of the population; and

(ii) specific activities individuals and institutions can engage in to promote and protect the health and wellness of the population;

(j) investigate the causes of morbidity and mortality;

(k) issue notices and orders necessary to carry out this part;

(l) conduct studies to identify injury problems, establish injury control systems, develop standards for the correction and prevention of future occurrences, and provide public information and instruction to special high risk groups;

(m) cooperate with boards created under Section 19-1-106 to enforce laws and rules within the jurisdiction of the boards;

(n) cooperate with the state health department, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice and Youth Services, and the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(o) investigate suspected bioterrorism and disease pursuant to Section 26B-7-321; and

(p) provide public health assistance in response to a national, state, or local emergency, a public health emergency as defined in Section 26B-7-301, or a declaration by the President of the United States or other federal official requesting public health-related activities.

(2) The local health department shall:

(a) establish programs or measures to promote and protect the health and general

SB0097S04 compared with SB0097S03

wellness of the people within the boundaries of the local health department;

(b) investigate infectious and other diseases of public health importance and implement measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health which may include involuntary testing of alleged sexual offenders for the HIV infection pursuant to Section 53-10-802 and voluntary testing of victims of sexual offenses for HIV infection pursuant to Section 53-10-803;

(c) cooperate with the department in matters pertaining to the public health and in the administration of state health laws; and

(d) coordinate implementation of environmental programs to maximize efficient use of resources by developing with the Department of Environmental Quality a Comprehensive Environmental Service Delivery Plan which:

(i) recognizes that the Department of Environmental Quality and local health departments are the foundation for providing environmental health programs in the state;

(ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;

(iii) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and

(iv) is reviewed and updated annually.

(3) The local health department has the following duties regarding public and private schools within the local health department's boundaries:

(a) enforce all ordinances, standards, and regulations pertaining to the public health of persons attending public and private schools;

(b) exclude from school attendance any person, including teachers, who is suffering from any communicable or infectious disease, whether acute or chronic, if the person is likely to convey the disease to those in attendance; and

(c) (i) make regular inspections of the health-related condition of all school buildings and premises;

(ii) report the inspections on forms furnished by the department to those responsible for the condition and provide instructions for correction of any conditions that impair or endanger

SB0097S04 compared with SB0097S03

the health or life of those attending the schools; and

(iii) provide a copy of the report to the department at the time the report is made.

(4) If those responsible for the health-related condition of the school buildings and premises do not carry out any instructions for corrections provided in a report in Subsection (3)(c), the local health board shall cause the conditions to be corrected at the expense of the persons responsible.

(5) The local health department may exercise incidental authority as necessary to carry out the provisions and purposes of this part.

(6) Nothing in this part may be construed to authorize a local health department to enforce an ordinance, rule, or regulation requiring the installation or maintenance of a carbon monoxide detector in a residential dwelling against anyone other than the occupant of the dwelling.

(7) (a) Except as provided in Subsection (7)(c), a local health department may not declare a public health emergency or issue an order of constraint until the local health department has provided notice of the proposed action to the chief executive officer of the relevant county no later than 24 hours before the local health department issues the order or declaration.

(b) The local health department:

(i) shall provide the notice required by Subsection (7)(a) using the best available method under the circumstances as determined by the local health department;

(ii) may provide the notice required by Subsection (7)(a) in electronic format; and

(iii) shall provide the notice in written form, if practicable.

(c) (i) Notwithstanding Subsection (7)(a), a local health department may declare a public health emergency or issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (7)(a) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department declares a public health emergency or issues an order of constraint as described in Subsection (7)(c)(i), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate a declaration of a

SB0097S04 compared with SB0097S03

public health emergency or an order of constraint issued as described in Subsection (7)(c)(i) within 72 hours of declaration of the public health emergency or issuance of the order of constraint.

(d) (i) The relevant county governing body may at any time terminate a public health emergency or an order of constraint issued by the local health department by majority vote of the county governing body in response to a declared public health emergency.

(ii) A vote by the relevant county governing body to terminate a public health emergency or an order of constraint as described in Subsection (7)(d)(i) is not subject to veto by the relevant chief executive officer.

(8) (a) Except as provided in Subsection (8)(b), a public health emergency declared by a local health department expires at the earliest of:

(i) the local health department or the chief executive officer of the relevant county finding that the threat or danger has passed or the public health emergency reduced to the extent that emergency conditions no longer exist;

(ii) 30 days after the date on which the local health department declared the public health emergency; or

(iii) the day on which the public health emergency is terminated by majority vote of the county governing body.

(b) (i) The relevant county legislative body, by majority vote, may extend a public health emergency for a time period designated by the county legislative body.

(ii) If the county legislative body extends a public health emergency as described in Subsection (8)(b)(i), the public health emergency expires on the date designated by the county legislative body.

(c) Except as provided in Subsection (8)(d), if a public health emergency declared by a local health department expires as described in Subsection (8)(a), the local health department may not declare a public health emergency for the same illness or occurrence that precipitated the previous public health emergency declaration.

(d) (i) Notwithstanding Subsection (8)(c), subject to Subsection (8)(f), if the local health department finds that exigent circumstances exist, after providing notice to the county legislative body, the department may declare a new public health emergency for the same illness or occurrence that precipitated a previous public health emergency declaration.

SB0097S04 compared with SB0097S03

(ii) A public health emergency declared as described in Subsection (8)(d)(i) expires in accordance with Subsection (8)(a) or (b).

(e) For a public health emergency declared by a local health department under this chapter or under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases, the Legislature may terminate by joint resolution a public health emergency that was declared based on exigent circumstances or that has been in effect for more than 30 days.

(f) If the Legislature or county legislative body terminates a public health emergency declared due to exigent circumstances as described in Subsection (8)(d)(i), the local health department may not declare a new public health emergency for the same illness, occurrence, or exigent circumstances.

(9) (a) During a public health emergency declared under this chapter or under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases:

(i) except as provided in Subsection (9)(b), a local health department may not issue an order of constraint without approval of the chief executive officer of the relevant county;

(ii) the Legislature may at any time terminate by joint resolution an order of constraint issued by a local health department in response to a declared public health emergency that has been in effect for more than 30 days; and

(iii) a county governing body may at any time terminate by majority vote of the governing body an order of constraint issued by a local health department in response to a declared public health emergency.

(b) (i) Notwithstanding Subsection (9)(a)(i), a local health department may issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (9)(a)(i) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department issues an order of constraint as described in Subsection (9)(b), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate an order of

SB0097S04 compared with SB0097S03

constraint issued as described in Subsection (9)(b) within 72 hours of issuance of the order of constraint.

(c) (i) For a local health department that serves more than one county, the approval described in Subsection (9)(a)(i) is required for the chief executive officer for which the order of constraint is applicable.

(ii) For a local health department that serves more than one county, a county governing body may only terminate an order of constraint as described in Subsection (9)(a)(iii) for the county served by the county governing body.

(10) (a) During a public health emergency declared as described in this title:

(i) the department or a local health department may not impose an order of constraint on a religious gathering that is more restrictive than an order of constraint that applies to any other relevantly similar gathering; and

(ii) an individual, while acting or purporting to act within the course and scope of the individual's official department or local health department capacity, may not:

(A) prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title; or

(B) impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.

(b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (10).

(c) During a public health emergency declared as described in this title, the department or a local health department shall not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:

(i) is in furtherance of a compelling government interest; and

(ii) is the least restrictive means of furthering that compelling government interest.

(d) Notwithstanding Subsections (8)(a) and (c), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

(11) An order of constraint issued by a local health department pursuant to a declared public health emergency does not apply to a facility, property, or area owned or leased by the

SB0097S04 compared with SB0097S03

state, including [~~the capitol hill complex, as that term is defined in Section 63C-9-102]~~ capitol hill, as defined in Section 63O-1-101.

(12) A local health department may not:

(a) require a person to obtain an inspection, license, or permit from the local health department to engage in a practice described in Subsection 58-11a-304(5); or

(b) prevent or limit a person's ability to engage in a practice described in Subsection 58-11a-304(5) by:

(i) requiring the person to engage in the practice at a specific location or at a particular type of facility or location; or

(ii) enforcing a regulation applicable to a facility or location where the person chooses to engage in the practice.

Section 5. Section **26B-1-309** is amended to read:

26B-1-309. Medicaid Restricted Account.

(1) There is created a restricted account in the General Fund known as the "Medicaid Restricted Account."

(2) (a) Except as provided in Subsection (3), the following shall be deposited into the Medicaid Restricted Account:

(i) any general funds appropriated to the department for the state plan for medical assistance or for the Division of Health Care Financing that are not expended by the department in the fiscal year for which the general funds were appropriated and which are not otherwise designated as nonlapsing shall lapse into the Medicaid Restricted Account;

(ii) any unused state funds that are associated with the Medicaid program, as defined in Section 26B-3-101, from the Department of Workforce Services; and

(iii) any penalties imposed and collected under:

(A) Section 17B-2a-818.5;

(B) Section 19-1-206;

(C) Section 63A-5b-607;

(D) Section [~~63C-9-403~~] 63O-2-403;

(E) Section 72-6-107.5; or

(F) Section 79-2-404.

(b) The account shall earn interest and all interest earned shall be deposited into the

SB0097S04 compared with SB0097S03

account.

(c) The Legislature may appropriate money in the restricted account to fund programs that expand medical assistance coverage and private health insurance plans to low income persons who have not traditionally been served by Medicaid, including the Utah Children's Health Insurance Program created in Section 26B-3-902.

(3) (a) For fiscal years 2008-09, 2009-10, 2010-11, 2011-12, and 2012-13 the following funds are nonlapsing:

(i) any general funds appropriated to the department for the state plan for medical assistance, or for the Division of Health Care Financing that are not expended by the department in the fiscal year in which the general funds were appropriated; and

(ii) funds described in Subsection (2)(a)(ii).

(b) For fiscal years 2019-20, 2020-21, 2021-22, and 2022-23, the funds described in Subsections (2)(a)(ii) and (3)(a)(i) are nonlapsing.

Section 6. Section **26B-3-909** is amended to read:

26B-3-909. State contractor -- Employee and dependent health benefit plan coverage.

(1) For purposes of Sections 17B-2a-818.5, 19-1-206, 63A-5b-607, [~~63C-9-403~~] 63O-2-403, 72-6-107.5, and 79-2-404, "qualified health coverage" means, at the time the contract is entered into or renewed:

(a) a health benefit plan and employer contribution level with a combined actuarial value at least actuarially equivalent to the combined actuarial value of:

(i) the benchmark plan determined by the program under Subsection 26B-3-904(1)(a); and

(ii) a contribution level at which the employer pays at least 50% of the premium or contribution amounts for the employee and the dependents of the employee who reside or work in the state; or

(b) a federally qualified high deductible health plan that, at a minimum:

(i) has a deductible that is:

(A) the lowest deductible permitted for a federally qualified high deductible health plan; or

(B) a deductible that is higher than the lowest deductible permitted for a federally

SB0097S04 compared with SB0097S03

qualified high deductible health plan, but includes an employer contribution to a health savings account in a dollar amount at least equal to the dollar amount difference between the lowest deductible permitted for a federally qualified high deductible plan and the deductible for the employer offered federally qualified high deductible plan;

(ii) has an out-of-pocket maximum that does not exceed three times the amount of the annual deductible; and

(iii) provides that the employer pays 60% of the premium or contribution amounts for the employee and the dependents of the employee who work or reside in the state.

(2) The department shall:

(a) on or before July 1, 2016:

(i) determine the commercial equivalent of the benchmark plan described in Subsection (1)(a); and

(ii) post the commercially equivalent benchmark plan described in Subsection (2)(a)(i) on the department's website, noting the date posted; and

(b) update the posted commercially equivalent benchmark plan annually and at the time of any change in the benchmark.

Section 7. Section **32B-4-102** is amended to read:

32B-4-102. Definitions.

As used in this chapter, "capitol hill complex" means ~~[the same as that term is defined in Section 63C-9-102]~~ capitol hill, as defined in Section 63O-1-101.

Section 8. Section **32B-4-415** is amended to read:

32B-4-415. Unlawful bringing onto premises for consumption.

(1) Except as provided in Subsection (4) and Section 32B-5-307, a person may not bring an alcoholic product for on-premise consumption onto the premises of:

(a) a retail licensee or person required to be licensed under this title as a retail licensee;

(b) an establishment that conducts a business similar to a retail licensee;

(c) an event where an alcoholic product is sold, offered for sale, or furnished under a single event permit or temporary beer event permit issued under this title;

(d) an establishment open to the general public; or

(e) the capitol hill complex.

(2) Except as provided in Subsection (4) and Section 32B-5-307, the following may

SB0097S04 compared with SB0097S03

not allow a person to bring onto its premises an alcoholic product for on-premise consumption or allow consumption of an alcoholic product brought onto its premises in violation of this section:

- (a) a retail licensee or a person required to be licensed under this title as a retail licensee;
- (b) an establishment that conducts a business similar to a retail licensee;
- (c) a single event permittee or temporary beer event permittee;
- (d) an establishment open to the general public;
- (e) the State Capitol Preservation Board created in Section [~~63C-9-201~~] 63O-2-201; or
- (f) staff of a person listed in Subsections (2)(a) through (e).

(3) Except as provided in Subsection (4)(c)(i)(A), a person may not consume an alcoholic product in a limousine or chartered bus if the limousine or chartered bus drops off a passenger at:

- (a) a location from which the passenger departs in a private vehicle; or
- (b) the capitol hill complex.

(4) (a) A person may bring bottled wine onto the premises of the following and consume the wine pursuant to Section 32B-5-307:

- (i) a full-service restaurant licensee;
- (ii) a limited restaurant licensee;
- (iii) a bar establishment licensee; or
- (iv) a person operating under a spa sublicense.

(b) A passenger of a limousine may bring onto, possess, and consume an alcoholic product in the limousine if:

- (i) the travel of the limousine begins and ends at:
 - (A) the residence of the passenger;
 - (B) the hotel of the passenger, if the passenger is a registered guest of the hotel; or
 - (C) the temporary domicile of the passenger;
- (ii) the driver of the limousine is separated from the passengers by partition or other

means approved by the department; and

- (iii) the limousine is not located on the capitol hill complex.

(c) A passenger of a chartered bus may bring onto, possess, and consume an alcoholic

SB0097S04 compared with SB0097S03

product on the chartered bus:

(i) (A) but may consume only during travel to a specified destination of the chartered bus and not during travel back to the place where the travel begins; or

(B) if the travel of the chartered bus begins and ends at:

(I) the residence of the passenger;

(II) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

(III) the temporary domicile of the passenger;

(ii) if the chartered bus has a nondrinking designee other than the driver traveling on the chartered bus to monitor consumption; and

(iii) if the chartered bus is not located on the capitol hill complex.

(5) A person may bring onto any premises, possess, and consume an alcoholic product at a private event.

(6) Notwithstanding Subsection (5), private and public facilities may prohibit the possession or consumption of alcohol on their premises.

(7) The restrictions of Subsections (2) and (3) apply to a resort licensee or hotel licensee or person operating under a sublicense in relationship to:

(a) the boundary of a resort building, as defined in Section 32B-8-102, or the boundary of a hotel, as defined in Section 32B-8b-102, in an area that is open to the public; or

(b) except as provided in Subsection (4), sublicensed premises.

Section 9. Section **36-2-2** is amended to read:

36-2-2. Salaries and expenses of members -- Compensation of in-session employees.

(1) (a) Unless rejected or lowered as provided in Section 36-2-3, beginning in 2001 and in each odd-numbered year after that year, members of the Legislature shall receive a salary equal to the amount recommended by the Legislative Compensation Commission in the last report issued by the commission in the previous even-numbered year.

(b) Unless rejected or lowered as provided in Section 36-2-3, beginning in 2001 and in each odd-numbered year after that year, members of the Legislature shall receive a salary for attendance at a veto-override, special session, and other authorized legislative meetings equal to the amount recommended by the Legislative Compensation Commission in the last report issued by the commission in the previous even-numbered year.

SB0097S04 compared with SB0097S03

(2) (a) Unless rejected or lowered as provided in Section 36-2-3, beginning in 2001 and in each odd-numbered year after that year, the president of the Senate and the speaker of the House of Representatives shall receive a salary equal to the amount recommended by the Legislative Compensation Commission in the last report issued by the commission in the previous even-numbered year.

(b) Beginning in 2001 and in each odd-numbered year after that year, the majority and minority leadership of each [~~house~~] chamber shall receive a salary equal to the amount recommended by the Legislative Compensation Commission in the last report issued by the commission in the previous even-numbered year.

(3) The Legislature shall:

(a) establish, by joint rule of the Legislature, the expenses of its members; and

(b) ensure that the rules governing expenses are based upon:

(i) payment of necessary expenses for attendance during legislative sessions;

(ii) a mileage allowance; and

(iii) reimbursement for other expenses involved in the performance of legislative duties.

~~[(4) (a) The Legislature shall establish the compensation of in-session employees by joint resolution at each session of the Legislature.]~~

~~[(b) For necessary work done by in-session employees of the Legislature after the adjournment of a session, the presiding officer of the house employing that work shall approve payment for the work.]~~

Section 10. 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

SB0097S04 compared with SB0097S03

(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~~] capitol hill, as defined in Section 63O-1-101.

(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

SB0097S04 compared with SB0097S03

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).

SB0097S04 compared with SB0097S03

(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;

SB0097S04 compared with SB0097S03

(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;

SB0097S04 compared with SB0097S03

(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

SB0097S04 compared with SB0097S03

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.

SB0097S04 compared with SB0097S03

(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

SB0097S04 compared with SB0097S03

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;

SB0097S04 compared with SB0097S03

(b) a special district governed by 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

SB0097S04 compared with SB0097S03

(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).

SB0097S04 compared with SB0097S03

(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 11. Section **36-12-1** is amended to read:

36-12-1. Definitions.

As used in this chapter:

~~[(1)(a) "Interim committees" means legislative committees that are formed from the membership of each house to function between sessions of the Legislature in order to study subjects of legislative concern.]~~

~~[(b) "Interim committees" includes a commission, committee, council, task force, board, or panel, in which legislative participation is required by law, which committee functions between sessions of the Legislature.]~~

(1) "Interim committee" means the same as that term is defined in legislative rule.

(2) "Legislative director" means the director of the Office of Legislative Research and General Counsel, the legislative fiscal analyst, or the legislative auditor general.

(3) "Major political party" means either of the two political parties having the greatest number of members elected to the two [~~houses~~] chambers of the Legislature.

(4) "Professional legislative staff" means the legislative directors and the members of their staffs.

~~[(5) "Standing committees" means legislative committees organized under the rules of each house of the Legislature for the duration of the legislative biennial term to consider proposed legislation. As used in this chapter, "standing committees" excludes appropriations committees, appropriations subcommittees, and rules committees.]~~

(5) "Standing committee" means a Senate or House committee established under Senate or House rule for the purpose of considering proposed legislation.

Section 12. Section **36-12-6** is amended to read:

36-12-6. Permanent committees -- House and Senate management -- Members -- Chair -- Legislative Management Committee -- Membership -- Chair and vice-chair --

SB0097S04 compared with SB0097S03

Meetings -- Quorum.

(1) There are hereby established as permanent committees of the Legislature a House Management Committee and a Senate Management Committee. The House Management Committee shall consist of eight members of the House of Representatives, four from each major political party. The membership shall include the elected leadership of the House of Representatives and additional members chosen at the beginning of each annual general session by the minority party caucus as needed to complete the full membership. The chair of the committee shall be the speaker of the House of Representatives or the speaker's designee. The Senate Management Committee shall consist of eight members of the Senate, four from each major political party. The membership shall include the elected leadership of the Senate and additional members chosen at the beginning of each annual general session by the appropriate party caucus as needed to complete the full membership. The chair of the committee shall be the president of the Senate or the president's designee.

(2) (a) There is established a permanent committee of the Legislature known as the Legislative Management Committee.

(b) The committee shall consist of:

- (i) the members of the House Management Committee; and
- (ii) the members of the Senate Management Committee.

(c) (i) The president of the Senate or the president's designee shall be chair during 1987, and the speaker of the House of Representatives or the speaker's designee shall be vice-chair of the committee during that year.

(ii) The positions of chair and vice-chair of the Legislative Management Committee shall rotate annually between these two officers in succeeding years.

(d) The committee shall meet as often as is necessary to perform its duties, but not less than once each quarter.

(e) If any vote of the committee results in a tie, the president of the Senate and speaker of the House of Representatives may together cast an additional vote to break the tie.

(3) If a legislator declines membership on the committees established by this section, or if a vacancy occurs, a replacement shall be chosen by the leadership of the appropriate party of the [house] chamber in which the vacancy occurs.

(4) The committees established by this section shall meet not later than 60 days after

SB0097S04 compared with SB0097S03

the adjournment sine die of the annual general session held in even-numbered years and not later than 30 days after the adjournment sine die of the annual general session held in odd-numbered years for the purpose of effecting their organization and prescribing rules and policies pertaining to their respective powers and duties. A majority of the members of each committee constitutes a quorum, and a majority of a quorum has authority to act in any matter falling within the jurisdiction of the committee.

Section 13. Section 36-12-7 is amended to read:

36-12-7. Legislative Management Committee -- Duties -- Litigation.

(1) The Senate or House Management Committee shall:

(a) receive legislative resolutions directing studies on legislative matters and may assign these studies to the appropriate interim committee of its [~~house~~] chamber;

(b) assign to interim committees of the same [~~house~~] chamber, matters of legislative study not specifically contained in a legislative resolution but considered significant to the welfare of the state;

(c) receive requests from interim committees of its [~~house~~] chamber for matters to be included on the study agenda of the requesting committee. Appropriate bases for denying a study include inadequate funding to properly complete the study or duplication of the work;

(d) establish a budget account for interim committee day as designated by Legislative Management Committee and for all other legislative committees of its [~~house~~] chamber and allocate to that account sufficient funds to adequately provide for the work of the committee; and

(e) designate the time and place for periodic meetings of the interim committees.

(2) To maximize the use of legislators' available time, the Senate and House Management Committees should attempt to schedule the committee meetings of their respective [~~houses~~] chambers during the same one or two-day period each month. This does not preclude an interim committee from meeting at any time it determines necessary to complete its business.

(3) (a) The Legislative Management Committee shall:

~~[(a) employ]~~

(i) appoint, after recommendation of the appropriate subcommittee of the Legislative Management Committee, without regard to political affiliation, and subject to approval of a

SB0097S04 compared with SB0097S03

majority vote of both [~~houses, persons~~] chambers, individuals qualified for the positions of director of the Office of Legislative Research and General Counsel, legislative fiscal analyst, legislative general counsel, and legislative auditor general [~~Appointments to these positions shall be for terms of six years subject to renewal under the same procedure as the original appointment. A person may be removed from any of these offices before the expiration of the person's term only by a majority vote of both houses of the Legislature or by a two-thirds vote of the management committee for such causes as inefficiency, incompetency, failure to maintain skills or adequate performance levels, insubordination, misfeasance, malfeasance, or nonfeasance in office. If a vacancy occurs in any of these offices after adjournment of the Legislature, the committee shall appoint an individual to fill the vacancy until such time as the person is approved or rejected by majority vote of the next session of the Legislature~~];

~~[(b)]~~ (i) develop policies for personnel management, compensation, and training of all professional legislative staff;

~~[(c)]~~ (iii) develop a policy within the limits of legislative appropriation for the authorization and payment to legislators of compensation and travel expenses, including out-of-state travel;

~~[(d)]~~ (iv) approve special study budget requests of the legislative directors; and

~~[(e)]~~ (v) assist the speaker-elect of the House of Representatives and the president-elect of the Senate, upon selection by their majority party caucus, to organize their respective [~~houses~~] chambers of the Legislature and assume the direction of the operation of the Legislature in the forthcoming annual general session.

(b) (i) (A) An appointment under Subsection (3)(a)(i) is for a six-year term, subject to renewal by a majority vote of the Legislative Management Committee.

(B) Each renewal is for an additional six-year term and is not subject to approval by the Legislature.

(ii) The Legislature by a majority vote of both chambers or the Legislative Management Committee by a two-thirds vote may remove an individual appointed under this Subsection (3) before the expiration of the individual's term for such causes as inefficiency, incompetency, failure to maintain skills or adequate performance levels, insubordination, misfeasance, malfeasance, or nonfeasance in office.

(c) If a vacancy occurs in a position appointed under this Subsection (3), the

SB0097S04 compared with SB0097S03

Legislative Management Committee shall appoint an individual to fill the vacancy until the Legislature approves or rejects the individual's appointment by a majority vote of both chambers.

(4) (a) The Legislature delegates to the Legislative Management Committee the authority, by means of a majority vote of the committee, to direct the legislative general counsel in matters involving the Legislature's participation in litigation.

(b) The Legislature has an unconditional right to intervene in a state court action and may provide evidence or argument, written or oral, if a party to that court action challenges:

- (i) the constitutionality of a state statute;
- (ii) the validity of legislation; or
- (iii) any action of the Legislature.

(c) In a federal court action that challenges the constitutionality of a state statute, the validity of legislation, or any action of the Legislature, the Legislature may seek to intervene, to file an amicus brief, or to present argument in accordance with federal rules of procedure.

(d) Intervention by the Legislature pursuant to Subsection (4)(b) or (c) does not limit the duty of the attorney general to appear and prosecute legal actions or defend state agencies, officers or employees as otherwise provided by law.

(e) In any action in which the Legislature intervenes or participates, legislative counsel and the attorney general shall function independently from each other in the representation of their respective clients.

(f) The attorney general shall notify the legislative general counsel of a claim in accordance with Subsection 67-5-1(1)(y).

Section 14. Section **36-12-8** is amended to read:

36-12-8. Legislative Management Committee -- Research and General Counsel Subcommittee -- Budget Subcommittee -- Audit Subcommittee -- Duties -- Members -- Meetings.

- (1) There are created within the Legislative Management Committee:
 - (a) the Research and General Counsel Subcommittee;
 - (b) the Budget Subcommittee; and
 - (c) the Audit Subcommittee.

~~[(2)(a) The Research and General Counsel Subcommittee, comprising six members,~~

SB0097S04 compared with SB0097S03

shall recommend to the Legislative Management Committee a person or persons to hold the positions of director of the Office of Legislative Research and General Counsel and legislative general counsel.]

~~[(b) The Budget Subcommittee, comprising six members, shall recommend to the Legislative Management Committee a person to hold the position of legislative fiscal analyst.]~~

(2) (a) The Research and General Counsel Subcommittee shall comprise:

(i) the president, majority leader, and minority leader of the Senate; and

(ii) the speaker, majority leader, and minority leader of the House of Representatives.

(b) The Research and General Counsel Subcommittee shall recommend to the Legislative Management Committee a person or persons to hold the positions of director of the Office of Legislative Research and General Counsel and legislative general counsel.

(3) (a) The Budget Subcommittee shall comprise:

(i) the president, majority leader, and minority leader of the Senate; and

(ii) the speaker, majority leader, and minority leader of the House of Representatives.

(b) The Budget Subcommittee shall recommend to the Legislative Management Committee a person to hold the position of legislative fiscal analyst.

~~[(c)]~~ (4) (a) The Audit Subcommittee shall comprise:

(i) the president, majority leader, and minority leader of the Senate; and

(ii) the speaker, majority leader, and minority leader of the House of Representatives.

~~[(d)]~~ (b) The Audit Subcommittee shall:

(i) recommend to the Legislative Management Committee a person to hold the position of legislative auditor general; and

(ii) (A) review all requests for audits;

(B) prioritize those requests;

(C) hear all audit reports and refer those reports to other legislative committees for their further review and action as appropriate; and

(D) when notified by the legislative auditor general or state auditor that a subsequent audit has found that an entity has not implemented a previous audit recommendation, refer the audit report to an appropriate legislative committee and also ensure that an appropriate legislative committee conducts a review of the entity that has not implemented the previous audit recommendation.

SB0097S04 compared with SB0097S03

~~[(3) The members of each subcommittee of the Legislative Management Committee, other than the Audit Subcommittee, shall have equal representation from each major political party and shall be appointed from the membership of the Legislative Management Committee by an appointments committee comprised of the speaker and the minority leader of the House of Representatives and the president and the minority leader of the Senate.]~~

~~[(4)]~~ (5) Each subcommittee of the Legislative Management Committee:

- (a) shall meet as often as necessary to perform its duties; and
- (b) may meet during and between legislative sessions.

Section 15. Section 36-12-8.1 is amended to read:

36-12-8.1. Legislative Management Committee -- Subcommittee on Oversight -- Members -- Duties -- Meetings.

(1) There is created within the Legislative Management Committee a Subcommittee on Oversight comprised of the following members:

- (a) from the Senate:
 - (i) the president;
 - (ii) the majority leader;
 - (iii) the minority leader; and
 - (iv) the minority whip;
- (b) from the House of Representatives:
 - (i) the speaker;
 - (ii) the majority leader;
 - (iii) the minority leader; and
 - (iv) the minority whip.

(2) The Subcommittee on Oversight shall~~;~~[;]

~~[(a)]~~ meet no later than November 1 of each year to review and approve the budget for the Office of the Legislative Fiscal Analyst, the Office of Legislative Research and General Counsel, and the Office of the Legislative Auditor General~~;~~[;]~~and~~.

~~[(b) provide an annual performance review for the legislative fiscal analyst, the director of the Office of Legislative Research and General Counsel, the legislative general counsel, and the legislative auditor general.]~~

~~[(3)(a) This subcommittee shall meet no later than:]~~

SB0097S04 compared with SB0097S03

~~[(i) June 1st of each year to receive and evaluate the results of the annual performance reviews; and]~~

~~[(ii) November 1st of each year to review and approve the budgets of the Office of the Legislative Fiscal Analyst, the Office of Legislative Research and General Counsel, and the Office of the Legislative Auditor General.]~~

~~[(b) This subcommittee may meet at other times as often as necessary to perform its duties.]~~

Section 16. Section **36-12-9.5** is amended to read:

36-12-9.5. Obstructing a legislative proceeding.

(1) As used in this section, "legislative proceeding" means an investigation or audit conducted by:

(a) the Legislature, or a ~~[house]~~ chamber, committee, subcommittee, or task force of the Legislature; or

(b) an employee or independent contractor of an entity described in Subsection (1)(a), at or under the direction of an entity described in Subsection (1)(a).

(2) Except as described in Subsection (3), a person is guilty of a class A misdemeanor if the person, with intent to hinder, delay, or prevent a legislative proceeding:

(a) provides a person with a weapon;

(b) prevents a person, by force, intimidation, or deception, from performing any act that might aid the legislative proceeding;

(c) alters, destroys, conceals, or removes any item or other thing;

(d) makes, presents, or uses an item, document, or thing known by the person to be false;

(e) makes a false material statement, not under oath, to:

(i) the Legislature, or a ~~[house]~~ chamber, committee, subcommittee, or task force of the Legislature; or

(ii) an employee or independent contractor of an entity described in Subsection (2)(e)(i);

(f) harbors or conceals a person;

(g) provides a person with transportation, disguise, or other means of avoiding discovery or service of process;

SB0097S04 compared with SB0097S03

- (h) warns any person of impending discovery or service of process;
 - (i) conceals an item, information, document, or thing that is not privileged after a legislative subpoena is issued for the item, information, document, or thing; or
 - (j) provides false information regarding a witness or a material aspect of the legislative proceeding.
- (3) Subsection (2) does not include:
- (a) false or inconsistent material statements, as described in Section 76-8-502;
 - (b) tampering with a witness or soliciting or receiving a bribe, as described in Section 76-8-508;
 - (c) retaliation against a witness, victim, or informant, as described in Section 76-8-508.3; or
 - (d) extortion or bribery to dismiss a criminal proceeding, as described in Section 76-8-509.

Section 17. Section **36-12-19** is amended to read:

36-12-19. Investigatory powers of the Legislature.

In the discharge of its legislative investigatory powers, the Legislature, or either [~~house~~] chamber or any committee thereof, may:

- (1) administer oaths; and
- (2) issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents, other tangible things, and testimony, by following the procedures contained in Title 36, Chapter 14, Legislative Subpoena Powers.

Section 18. Section **41-6a-1401** is amended to read:

41-6a-1401. Standing or parking vehicles -- Restrictions and exceptions.

- (1) Except when necessary to avoid conflict with other traffic, or in compliance with law, the directions of a peace officer, or a traffic-control device, a person may not:
 - (a) stop, stand, or park a vehicle:
 - (i) on the roadway side of any vehicle stopped or parked at the edge or curb of a street;
 - (ii) on a sidewalk;
 - (iii) within an intersection;
 - (iv) on a crosswalk;
 - (v) between a safety zone and the adjacent curb or within 30 feet of points on the curb

SB0097S04 compared with SB0097S03

immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;

(vi) alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;

(vii) on any bridge or other elevated structure, on a highway, or within a highway tunnel;

(viii) on any railroad tracks;

(ix) on any controlled-access highway;

(x) in the area between roadways of a divided highway, including crossovers; or

(xi) any place where a traffic-control device prohibits stopping, standing, or parking;

(b) stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

(i) in front of a public or private driveway;

(ii) within 15 feet of a fire hydrant;

(iii) within 20 feet of a crosswalk;

(iv) within 30 feet upon the approach to any flashing signal, stop sign, yield sign, or traffic-control signal located at the side of a roadway;

(v) within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance when properly signposted;

(vi) at any place where a traffic-control device prohibits standing; or

(vii) at ~~[the capitol hill complex as defined in Section 63C-9-102]~~ capitol hill, as defined in Section 63O-1-101, in a parking space identified as reserved for specific users, without:

(A) approval by the executive director of the State Capitol Preservation Board created in Section ~~[63C-9-201]~~ 63O-2-201; and

(B) a properly displayed placard or other identifying marker approved by the executive director of the State Capitol Preservation Board to indicate this approval; or

(c) park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers:

(i) within 50 feet of the nearest rail of a railroad crossing; or

SB0097S04 compared with SB0097S03

(ii) at any place where traffic-control devices prohibit parking.

(2) A person may not move a vehicle that is not lawfully under the person's control into any prohibited area or into an unlawful distance from the curb.

(3) This section does not apply to a tow truck motor carrier responding to a customer service call if the tow truck motor carrier has already received authorization from the local law enforcement agency in the jurisdiction where the vehicle to be towed is located.

Section 19. Section **49-11-406** is amended to read:

49-11-406. Governor's appointed executives and senior staff -- Appointed legislative employees -- Transfer of value of accrued defined benefit -- Procedures.

(1) As used in this section:

(a) "Defined benefit balance" means the total amount of the contributions made on behalf of a member to a defined benefit system plus refund interest.

(b) "Senior staff" means an at-will employee who reports directly to an elected official, executive director, or director and includes a deputy director and other similar, at-will employee positions designated by the governor, the speaker of the House, or the president of the Senate and filed with the Division of Human Resource Management and the Utah State Retirement Office.

(2) In accordance with this section and subject to requirements under federal law and rules made by the board, a member who has service credit from a system may elect to be exempt from coverage under a defined benefit system and to have the member's defined benefit balance transferred from the defined benefit system or plan to a defined contribution plan in the member's own name if the member is:

(a) the state auditor;

(b) the state treasurer;

(c) an appointed executive under Subsection 67-22-2(1)(a);

(d) an employee in the Governor's Office;

(e) senior staff in the Governor's Office of Planning and Budget;

(f) senior staff in the Governor's Office of Economic Opportunity;

(g) senior staff in the State Commission on Criminal and Juvenile Justice;

(h) senior staff in the Public Lands Policy Coordinating Office, created in Section 63L-11-201;

SB0097S04 compared with SB0097S03

(i) a legislative employee appointed under Subsection [~~36-12-7(3)(a)~~] 36-12-7(3); or
(j) a legislative employee appointed by the speaker of the House of Representatives, the House of Representatives minority leader, the president of the Senate, or the Senate minority leader.

(3) An election made under Subsection (2):

(a) is final, and no right exists to make any further election;

(b) is considered a request to be exempt from coverage under a defined benefits system; and

(c) shall be made on forms provided by the office.

(4) The board shall adopt rules to implement and administer this section.

Section 20. Section **53-1-102** is amended to read:

53-1-102. Definitions.

(1) As used in this title:

(a) "Capitol hill complex" means [~~the same as that term is defined in Section 63C-9-102~~] capitol hill, as defined in Section 63O-1-101.

(b) "Commissioner" means the commissioner of public safety appointed under Section 53-1-107.

(c) "Department" means the Department of Public Safety created in Section 53-1-103.

(d) "Governor-elect" means an individual whom the board of canvassers determines to be the successful candidate for governor after a general election for the office of governor.

(e) "Law enforcement agency" means an entity or division of:

(i) (A) the federal government, a state, or a political subdivision of a state;

(B) a state institution of higher education; or

(C) a private institution of higher education, if the entity or division is certified by the commissioner under Title 53, Chapter 19, Certification of Private Law Enforcement Agency;

and

(ii) that exists primarily to prevent and detect crime and enforce criminal laws, statutes, and ordinances.

(f) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(g) "Motor vehicle" means every self-propelled vehicle and every vehicle propelled by

SB0097S04 compared with SB0097S03

electric power obtained from overhead trolley wires, but not operated upon rails, except motorized wheel chairs and vehicles moved solely by human power.

(h) "Peace officer" means any officer certified in accordance with Title 53, Chapter 13, Peace Officer Classifications.

(i) "Public official" means the same as that term is defined in Section 36-11-102.

(j) "State institution of higher education" means the same as that term is defined in Section 53B-3-102.

(k) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

(2) The definitions provided in Subsection (1) are to be applied throughout this title in addition to definitions that are applicable to specific chapters or parts.

Section 21. Section **53-1-109** is amended to read:

53-1-109. Security for capitol complex -- Traffic and parking rules enforcement for division -- Security personnel as law enforcement officers.

~~[(1) As used in this section, "capitol hill facilities" and "capitol hill grounds" have the same meaning as provided in Section 63C-9-102.]~~

~~[(2)]~~ (1) (a) The commissioner, under the direction of the State Capitol Preservation Board, shall:

(i) provide for the security of capitol hill [~~facilities and capitol hill grounds~~]; and

(ii) enforce traffic provisions under Title 41, Chapter 6a, Traffic Code, and parking rules, as adopted by the State Capitol Preservation Board, for capitol hill [~~facilities and capitol hill grounds~~].

(b) The commissioner, in cooperation with the director of the Division of Facilities Construction and Management shall provide for the security of all grounds and buildings under the jurisdiction of the Division of Facilities Construction and Management.

~~[(3)]~~ (2) Security personnel required in Subsection ~~[(2)]~~ (1) shall be law enforcement officers as defined in Section 53-13-103.

~~[(4)]~~ (3) Security personnel who were actively employed and had five or more years of active service with Protective Services within the Utah Highway Patrol Division as special function officers, as defined in Section 53-13-105, on June 29, 1996, shall become law

SB0097S04 compared with SB0097S03

enforcement officers:

(a) without a requirement of any additional training or examinations, if they have completed the entire law enforcement officer training of the Peace Officers Standards and Training Division; or

(b) upon completing only the academic portion of the law enforcement officer training of the Peace Officers Standards and Training Division.

~~[(5)]~~ (4) An officer in a supervisory position with Protective Services within the Utah Highway Patrol Division shall be allowed to transfer the job title that the officer held on April 28, 1996, into a comparable supervisory position of employment as a peace officer for as long as the officer remains with Protective Services within the Utah Highway Patrol Division.

Section 22. Section **53-8-105** is amended to read:

53-8-105. Duties of Highway Patrol.

(1) In addition to the duties in this chapter, the Highway Patrol shall:

(a) enforce the state laws and rules governing use of the state highways;

(b) regulate traffic on all highways and roads of the state;

(c) assist the governor in an emergency or at other times at his discretion;

(d) in cooperation with federal, state, and local agencies, enforce and assist in the enforcement of all state and federal laws related to the operation of a motor carrier on a highway, including all state and federal rules and regulations;

(e) inspect certain vehicles to determine road worthiness and safe condition as provided in Section 41-6a-1630;

(f) upon request, assist with any condition of unrest existing or developing on a campus or related facility of an institution of higher education;

(g) assist the Alcoholic Beverage Services Commission in an emergency to enforce the state liquor laws;

(h) provide security and protection for both houses of the Legislature while in session as the speaker of the House of Representatives and the president of the Senate find necessary;

(i) enforce the state laws and rules governing use of ~~[the]~~ capitol hill ~~[complex as defined in Section 63C-9-102]~~; and

(j) carry out the following for the Supreme Court and the Court of Appeals:

(i) provide security and protection to those courts when in session in the capital city of

SB0097S04 compared with SB0097S03

the state;

- (ii) execute orders issued by the courts; and
- (iii) carry out duties as directed by the courts.

(2) (a) The division and the department shall annually:

(i) evaluate the inventory of new and existing state highways, in coordination with relevant local law enforcement agencies, to determine which law enforcement agency is best suited to patrol and enforce state laws and regulate traffic on each state highway; and

(ii) before October 1 of each year, report to the Transportation Interim Committee and the Executive Offices and Criminal Justice Appropriations Subcommittee regarding:

(A) significant changes to the patrol and enforcement responsibilities resulting from the evaluation described in Subsection (2)(a)(i); and

(B) any budget request necessary to accommodate additional patrol and enforcement responsibilities.

(b) The division and the department shall, before July 1 of each year, coordinate with the Department of Transportation created in Section 72-1-201 regarding patrol and enforcement responsibilities described in Subsection (2)(a) and incident management services on state highways.

Section 23. Section **53D-2-203** is amended to read:

53D-2-203. Land Trusts Protection and Advocacy Office director -- Appointment -- Removal -- Power and duties.

(1) (a) The advocacy committee shall:

(i) discuss candidates who may qualify for appointment as the advocacy director, as described in Subsection (1)(b);

(ii) determine the two most qualified candidates; and

(iii) submit the names of those two candidates to the state treasurer as potential appointees for the advocacy director.

(b) A potential appointee for advocacy director shall have significant expertise and qualifications relating to generating revenue to the school and institutional trust and the duties of the advocacy office and the advocacy director, which may include expertise in:

- (i) business;
- (ii) finance;

SB0097S04 compared with SB0097S03

(iii) economics;

(iv) natural resources; or

(v) advocacy.

(c) From the individuals described in Subsection (1)(a), the state treasurer shall appoint one as the advocacy director.

(2) (a) An advocacy director shall serve a four-year term.

(b) If a vacancy occurs in the advocacy director's position, the advocacy committee and state treasurer shall, in accordance with Subsection (1), appoint a replacement director for a four-year term.

(3) The advocacy committee may remove the advocacy director during a meeting that is not closed as described in Section 52-4-204, if:

(a) removal of the advocacy director is scheduled on the agenda for the meeting; and

(b) a majority of a committee quorum votes to remove the advocacy director.

(4) In accordance with state and federal law, the advocacy director may attend a presentation, discussion, meeting, or other gathering related to the school and institutional trust.

(5) In order to fulfill the duties of the advocacy office described in Section 53D-2-201, the advocacy director shall:

(a) maintain a direct relationship with each individual who is key to fulfilling the state's trustee obligations and duties related to the trust;

(b) facilitate open communication among key individuals described in Subsection (5)(a);

(c) actively seek necessary and accurate information;

(d) review and, if necessary, recommend the state auditor audit, activities involved in:

(i) generating trust revenue;

(ii) protecting trust assets; or

(iii) distributing funds for the exclusive use of trust beneficiaries;

(e) promote accurate record keeping of all records relevant to the trust and distribution to trust beneficiaries;

(f) report at least quarterly to the advocacy committee and the state treasurer on the current activities of the advocacy office;

(g) annually submit a proposed advocacy office budget to the state treasurer;

SB0097S04 compared with SB0097S03

(h) regarding the trust's compliance with law, and among the School and Institutional Trust Lands System as a whole, report annually to:

- (i) the advocacy committee;
- (ii) the state treasurer;
- (iii) the State Board of Education; and
- (iv) the Executive Appropriations Committee;

(i) annually send a financial report regarding the relevant individual trust, and, upon request, report in person to:

- (i) Utah State University, on behalf of the agricultural college trust;
- (ii) the University of Utah;
- (iii) the Utah State Hospital, on behalf of the mental hospital trust;
- (iv) the Utah Schools for the Deaf and the Blind, on behalf of the institution for the blind trust and the deaf and dumb asylum trust;

(v) the youth in custody program at the State Board of Education, on behalf of the reform school trust;

(vi) the Division of Water Resources, created in Section 73-10-18, on behalf of the reservoir trust;

(vii) the College of Mines and Earth Sciences created in Section 53B-17-401;

(viii) each state teachers' college, based on the college's annual number of teacher graduates, on behalf of the normal school trust;

(ix) the Miners' Hospital described in Section 53B-17-201; and

(x) the State Capitol Preservation Board, created in Section [~~63C-9-201~~] 63O-2-201, on behalf of the public buildings trust;

(j) as requested by the state treasurer, draft proposed rules and submit the proposed rules to the advocacy committee for review;

(k) in accordance with state and federal law, respond to external requests for information about the School and Institutional Trust Lands System;

(l) in accordance with state and federal law, speak on behalf of trust beneficiaries:

- (i) at School and Institutional Trust Lands Administration meetings;
- (ii) at School and Institutional Trust Fund Office meetings; and
- (iii) with the media;

SB0097S04 compared with SB0097S03

(m) review proposed legislation that affects the school and institutional trust and trust beneficiaries and advocate for legislative change that best serves the interests of the trust beneficiaries; and

(n) educate the public regarding the School and Institutional Trust Lands System.

(6) With regard to reviewing the activities described in Subsection (5)(d), the advocacy director may have access to the financial reports and other data required for a review.

Section 24. Section **55-5-6** is amended to read:

55-5-6. Definitions.

As used in this chapter:

(1) "Food service" includes restaurant, cafeteria, snack bar, vending machines for food and beverages, and goods and services customarily offered in connection with them.

(2) (a) "Public office building" means all county courthouses, all city or town halls, and all buildings used primarily for governmental offices of the state or any county, city, or town.

(b) "Public office building" does not include a building or other facility on capitol hill [~~facilities as defined in Section 63C-9-102~~], as defined in Section 63O-1-101, public schools, state colleges, or state universities.

Section 25. Section **63A-5b-102** is amended to read:

63A-5b-102. Definitions.

As used in this chapter:

~~[(1) "Capitol hill facilities" means the same as that term is defined in Section 63C-9-102.]~~

~~[(2) "Capitol hill grounds" means the same as that term is defined in Section 63C-9-102.]~~

(1) "Capitol hill" means the same as that term is defined in Section 63O-1-101.

~~[(3)]~~ (2) "Compliance agency" means the same as that term is defined in Section 15A-1-202.

~~[(4)]~~ (3) "Director" means the division director, appointed under Section 63A-5b-302.

~~[(5)]~~ (4) "Division" means the Division of Facilities Construction and Management created in Section 63A-5b-301.

~~[(6)]~~ (5) "Institution of higher education" means an institution listed in Subsection 53B-2-101(1).

SB0097S04 compared with SB0097S03

~~[(7)]~~ (6) "Trust lands administration" means the School and Institutional Trust Lands Administration established in Section 53C-1-201.

~~[(8)]~~ (7) "Utah Board of Higher Education" means the Utah Board of Higher Education established in Section 53B-1-402.

Section 26. Section **63A-5b-303 (Superseded 07/01/24)** is amended to read:

63A-5b-303 (Superseded 07/01/24). Duties and authority of division.

(1) (a) The division shall:

(i) subject to Subsection (1)(b), supervise and control the allocation of space, in accordance with legislative directive through annual appropriations acts, other legislation, or statute, to agencies in all buildings or space owned, leased, or rented by or to the state, except as provided in Subsection (3) or as otherwise provided by statute;

(ii) assure the efficient use of all building space under the division's supervision and control;

(iii) acquire title to all real property, buildings, fixtures, and appurtenances for use by the state or an agency, as authorized by the Legislature through an appropriation act, other legislation, or statute, subject to Subsection (1)(c);

(iv) except as otherwise provided by statute, hold title to all real property, buildings, fixtures, and appurtenances owned by the state or an agency;

(v) collect and maintain all deeds, abstracts of title, and all other documents evidencing title to or an interest in property belonging to the state or to the state's departments, except institutions of higher education and the trust lands administration;

(vi) (A) periodically conduct a market analysis of proposed rates and fees; and

(B) include in a market analysis a comparison of the division's rates and fees with the rates and fees of other public or private sector providers of comparable services, if rates and fees for comparable services are reasonably available;

(vii) fulfill the division's responsibilities under Part 10, Energy Conservation and Efficiency, including responsibilities:

(A) to implement the state building energy efficiency program under Section 63A-5b-1002; and

(B) related to the approval of loans from the State Facility Energy Efficiency Fund under Section 63A-5b-1003;

SB0097S04 compared with SB0097S03

(viii) convey, lease, or dispose of the real property, water rights, or water shares associated with the Utah State Developmental Center if directed to do so by the Utah State Developmental Center board, as provided in Subsection 26B-6-507(2); and

(ix) take all other action that the division is required to do under this chapter or other applicable statute.

(b) In making an allocation of space under Subsection (1)(a)(i), the division shall conduct one or more studies to determine the actual needs of each agency.

(c) The division may, without legislative approval, acquire title to real property for use by the state or an agency if the acquisition cost does not exceed \$500,000.

(2) The division may:

(a) sue and be sued;

(b) as authorized by the Legislature, buy, lease, or otherwise acquire, by exchange or otherwise, and hold real or personal property necessary for the discharge of the division's duties; and

(c) take all other action necessary for carrying out the purposes of this chapter.

(3) (a) The division may not supervise or control the allocation of space for an entity in the public education system.

~~[(b) The supervision and control of the legislative area is reserved to the Legislature.]~~

~~[(c) The supervision and control of capitol hill facilities and capitol hill grounds is reserved to the State Capitol Preservation Board.]~~

(b) The division may not supervise or control capitol hill or any part of capitol hill.

~~[(d)]~~ (c) (i) Subject to Subsection ~~[(3)(d)(ii)]~~ (3)(c)(ii), the supervision and control of the allocation of space for an institution of higher education is reserved to the Utah Board of Higher Education.

(ii) The Utah Board of Higher Education shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of the allocation of space for an institution of higher education.

~~[(e)]~~ (d) (i) Subject to Subsection ~~[(3)(e)(ii)]~~ (3)(d)(ii), the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1) is reserved to the Administrative Office of the Courts referred to in Subsection 78A-2-108(3).

(ii) The Administrative Office of the Courts shall consult and cooperate with the

SB0097S04 compared with SB0097S03

division in the establishment and enforcement of standards for the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1).

(4) Before the division charges a rate, fee, or other amount for a service provided by the division's internal service fund to an executive branch agency, or to a service subscriber other than an executive branch agency, the division shall:

(a) submit an analysis of the proposed rate, fee, or other amount to the rate committee created in Section 63A-1-114; and

(b) obtain the approval of the Legislature as required by Section 63J-1-410 or 63J-1-504.

Section 27. Section **63A-5b-303 (Effective 07/01/24)** is amended to read:

63A-5b-303 (Effective 07/01/24). Duties and authority of division.

(1) (a) The division shall:

(i) subject to Subsection (1)(b), supervise and control the allocation of space, in accordance with legislative directive through annual appropriations acts, other legislation, or statute, to agencies in all buildings or space owned, leased, or rented by or to the state, except as provided in Subsection (3) or as otherwise provided by statute;

(ii) assure the efficient use of all building space under the division's supervision and control;

(iii) acquire title to all real property, buildings, fixtures, and appurtenances for use by the state or an agency, as authorized by the Legislature through an appropriation act, other legislation, or statute, subject to Subsection (1)(c);

(iv) except as otherwise provided by statute, hold title to all real property, buildings, fixtures, and appurtenances owned by the state or an agency;

(v) collect and maintain all deeds, abstracts of title, and all other documents evidencing title to or an interest in property belonging to the state or to the state's departments, except institutions of higher education and the trust lands administration;

(vi) (A) periodically conduct a market analysis of proposed rates and fees; and

(B) include in a market analysis a comparison of the division's rates and fees with the rates and fees of other public or private sector providers of comparable services, if rates and fees for comparable services are reasonably available;

(vii) fulfill the division's responsibilities under Part 10, Energy Conservation and

SB0097S04 compared with SB0097S03

Efficiency, including responsibilities:

(A) to implement the state building energy efficiency program under Section 63A-5b-1002; and

(B) related to the approval of loans from the State Facility Energy Efficiency Fund under Section 63A-5b-1003;

(viii) convey, lease, or dispose of the real property, water rights, or water shares associated with the Utah State Developmental Center if directed to do so by the Utah State Developmental Center board, as provided in Subsection 26B-6-507(2); and

(ix) take all other action that the division is required to do under this chapter or other applicable statute.

(b) In making an allocation of space under Subsection (1)(a)(i), the division shall conduct one or more studies to determine the actual needs of each agency.

(c) The division may, without legislative approval, acquire title to real property for use by the state or an agency if the acquisition cost does not exceed \$500,000.

(2) The division may:

(a) sue and be sued;

(b) as authorized by the Legislature, buy, lease, or otherwise acquire, by exchange or otherwise, and hold real or personal property necessary for the discharge of the division's duties; and

(c) take all other action necessary for carrying out the purposes of this chapter.

(3) (a) The division may not supervise or control the allocation of space for an entity in the public education system.

~~[(b) The supervision and control of the legislative area is reserved to the Legislature.]~~

~~[(c) The supervision and control of capitol hill facilities and capitol hill grounds is reserved to the State Capitol Preservation Board.]~~

(b) The division may not supervise or control capitol hill or any part of capitol hill.

~~[(d)]~~ (c) (i) Subject to Subsection ~~[(3)(d)(ii)]~~ (3)(c)(ii), the supervision and control of the allocation of space for an institution of higher education is reserved to the Utah Board of Higher Education.

(ii) The Utah Board of Higher Education shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of the

SB0097S04 compared with SB0097S03

allocation of space for an institution of higher education.

~~[(c)]~~ (d) (i) Subject to Subsection ~~[(3)(c)(ii)]~~ (3)(d)(ii), the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1) is reserved to the Administrative Office of the Courts described in Section 78A-2-108.

(ii) The Administrative Office of the Courts shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1).

(4) Before the division charges a rate, fee, or other amount for a service provided by the division's internal service fund to an executive branch agency, or to a service subscriber other than an executive branch agency, the division shall:

(a) submit an analysis of the proposed rate, fee, or other amount to the rate committee created in Section 63A-1-114; and

(b) obtain the approval of the Legislature as required by Section 63J-1-410 or 63J-1-504.

Section 28. Section **63A-5b-607** is amended to read:

63A-5b-607. Health insurance requirements -- Penalties.

(1) As used in this section:

(a) "Aggregate amount" means the dollar sum of all contracts, change orders, and modifications for a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Eligible employee" means an employee, as defined in Section 34A-2-104, who:

(i) works at least 30 hours per calendar week; and

(ii) meets the employer eligibility waiting period for qualified health insurance coverage provided by the employer.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group

SB0097S04 compared with SB0097S03

health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health insurance coverage" means the same as that term is defined in Section 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract with the division if the prime contract is in an aggregate amount of \$2,000,000 or more; and

(b) a subcontractor of a contractor of a design or construction contract with the division if the subcontract is in an aggregate amount of \$1,000,000 or more.

(3) The requirements of this section do not apply to a contractor or subcontractor if:

(a) the application of this section jeopardizes the division's receipt of federal funds;

(b) the contract is a sole source contract, as defined in Section 63G-6a-103; or

(c) the contract is the result of an emergency procurement.

(4) A person who intentionally uses a change order, contract modification, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor that is subject to the requirements of this section shall:

(i) make and maintain an offer of qualified health coverage for the contractor's eligible employees and the eligible employees' dependents; and

(ii) submit to the director a written statement demonstrating that the contractor is in compliance with Subsection (5)(a)(i).

(b) A statement under Subsection (5)(a)(ii):

(i) shall be from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(ii) may not be created more than one year before the day on which the contractor

SB0097S04 compared with SB0097S03

submits the statement to the director.

(c) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(b)(i)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(b)(i)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the division.

(6) (a) A contractor that is subject to the requirements of this section shall:

(i) ensure that each contract the contractor enters with a subcontractor that is subject to the requirements of this section requires the subcontractor to obtain and maintain an offer of qualified health coverage for the subcontractor's eligible employees and the eligible employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor referred to in Subsection (6)(a)(i) a written statement demonstrating that the subcontractor offers qualified health coverage to eligible employees and eligible employees' dependents.

(b) A statement under Subsection (6)(a)(ii):

(i) shall be from:

(A) an actuary selected by the subcontractor or the subcontractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(ii) may not be created more than one year before the day on which the contractor obtains the statement from the subcontractor.

(7) (a) (i) A contractor that fails to maintain an offer of qualified health coverage during the duration of the contract as required in this section is subject to penalties in

SB0097S04 compared with SB0097S03

accordance with administrative rules made by the division under this section, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(ii) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage as required in this section.

(b) (i) A subcontractor that fails to obtain and maintain an offer of qualified health coverage during the duration of the subcontract as required in this section is subject to penalties in accordance with administrative rules made by the division under this section, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(ii) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage as required in this section.

(8) The division shall make rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) a public transit district in accordance with Section 17B-2a-818.5;

(iv) the State Capitol Preservation Board in accordance with Section [~~63C-9-403~~]

63O-2-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review and General Oversight Committee;

and

(c) that establish:

(i) the requirements and procedures for a contractor and a subcontractor to demonstrate compliance with this section, including:

(A) a provision that a contractor or subcontractor's compliance with this section is subject to an audit by the division or the Office of the Legislative Auditor General;

(B) a provision that a contractor that is subject to the requirements of this section obtain a written statement as provided in Subsection (5); and

(C) a provision that a subcontractor that is subject to the requirements of this section obtain a written statement as provided in Subsection (6);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally

SB0097S04 compared with SB0097S03

violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into a future contract with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into a future contract with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for eligible employees and dependents of eligible employees of the contractor or subcontractor who were not offered qualified health coverage during the duration of the contract; and

(iii) a website for the department to post the commercially equivalent benchmark for the qualified health coverage that is provided by the Department of Health and Human Services in accordance with Subsection 26B-3-909(2).

(9) During the duration of a contract, the division may perform an audit to verify a contractor or subcontractor's compliance with this section.

(10) (a) Upon the division's request, a contractor or subcontractor shall provide the division:

(i) a signed actuarial certification that the coverage the contractor or subcontractor offers is qualified health coverage; or

(ii) all relevant documents and information necessary for the division to determine compliance with this section.

(b) If a contractor or subcontractor provides the documents and information described in Subsection (10)(a)(i), the Insurance Department shall assist the division in determining if the coverage the contractor or subcontractor offers is qualified health coverage.

(11) (a) (i) In addition to the penalties imposed under Subsection (7), a contractor or subcontractor that intentionally violates the provisions of this section is liable to an eligible employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (11)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)

SB0097S04 compared with SB0097S03

or (6); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An eligible employee has a private right of action against the employee's employer only as provided in this Subsection (11).

(12) The director shall cause money collected from the imposition and collection of a penalty under this section to be deposited into the Medicaid Restricted Account created by Section 26B-1-309.

(13) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(14) An employer's waiting period for an employee to become eligible for qualified health coverage may not extend beyond the first day of the calendar month following 60 days after the day on which the employee is hired.

(15) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (11)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 29. Section **63G-1-503 (Effective 03/09/24)** is amended to read:

SB0097S04 compared with SB0097S03

63G-1-503 (Effective 03/09/24). Historic state flag -- Description -- Image --

Display.

(1) The historic state flag shall be a flag of blue field, with the following device worked in natural colors on the center of the blue field:

- (a) in the center a shield;
- (b) above the shield and thereon an American eagle with outstretched wings;
- (c) the top of the shield pierced with six arrows arranged crosswise;
- (d) upon the shield under the arrows the word "Industry," and below the word

"Industry" on the center of the shield, a beehive;

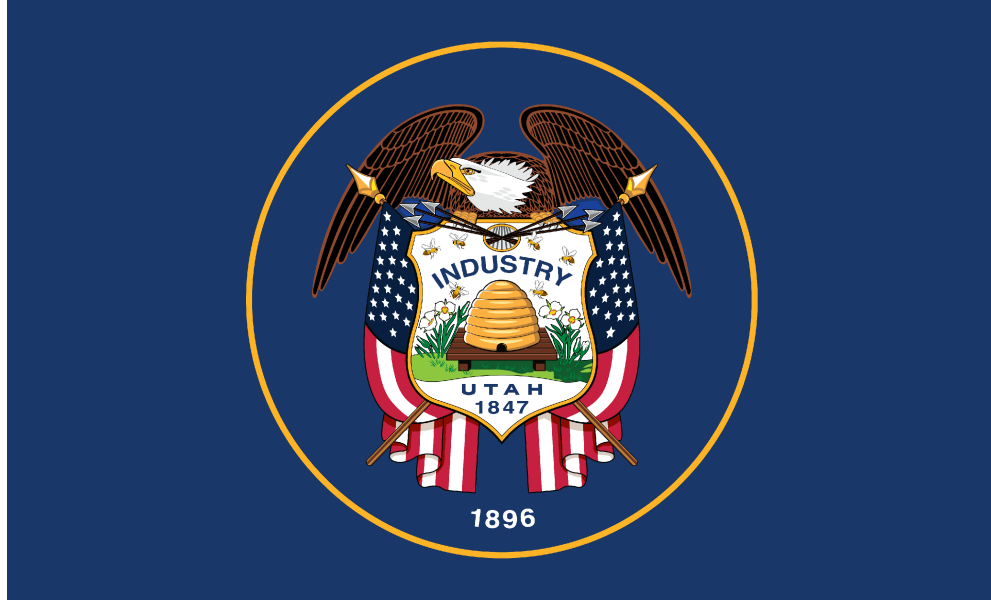
- (e) on each side of the beehive, growing sego lilies;
- (f) below the beehive and near the bottom of the shield, the word "Utah";
- (g) below the word "Utah" and on the bottom of the shield, the figures "1847";

(h) behind the shield, there shall be two American flags on flagstaffs placed crosswise with the flags so draped to project beyond each side of the shield, the heads of the flagstaffs appearing in front of the eagle's wings and the bottom of each staff appearing over the face of the draped flag below the shield;

- (i) below the shield and flags and upon the blue field, the figures "1896"; and
- (j) around the entire design, a narrow circle in gold.

(2) The historic state flag shall appear consistent with any of the following three images:

SB0097S04 compared with SB0097S03



SB0097S04 compared with SB0097S03



(3) All citizens maintain the right to use the historic state flag upon any occasion deemed fitting and appropriate.

(4) The lieutenant governor shall establish standards and specifications for the manufacture and display of the historic state flag.

(5) The historic state flag shall be displayed:

(a) on state property during legal holidays described in Section 63G-1-301, as deemed appropriate by the governor; and

(b) [~~on the capitol hill complex, as defined in Section 63C-9-102~~] at capitol hill, as defined in Section 63O-1-101, during the annual general session of the Legislature.

(6) (a) The historic state flag may be displayed on state property for ceremonial purposes, so long as the flag is serviceable.

(b) The historic state flag shall be replaced by the state flag of Utah, as described in Section 63G-1-501, when the historic state flag is not displayed for ceremonial purposes.

(c) When displaying the historic state flag on public grounds in any location where the state flag of Utah, as described in Section 63G-1-501, is also displayed, the governmental entity responsible for the display of the flags shall ensure that the historic state flag is displayed beneath the state flag of Utah.

Section 30. Section **63G-1-702** is amended to read:

63G-1-702. Definitions.

SB0097S04 compared with SB0097S03

As used in this part:

(1) "Capitol hill complex" [~~is as defined in Section 63C-9-102~~] means capitol hill, as defined in Section 63O-1-101.

(2) (a) "Flag" means a depiction or emblem made from fabric or cloth.

(b) "Flag" does not include a depiction or emblem made from:

(i) lights;

(ii) paint;

(iii) roofing;

(iv) siding;

(v) paving materials;

(vi) flora;

(vii) balloons; or

(viii) any other building, landscaping, or decorative component other than fabric or cloth.

(3) "Flag of the United States" is the flag described in United States Code Title 4, Chapter 1, The Flag.

(4) "POW/MIA flag" means the POW/MIA flag of the National League of Families of American Prisoners and Missing in Southeast Asia.

Section 31. Section **63J-1-602.2 (Superseded 07/01/24)** is amended to read:

63J-1-602.2 (Superseded 07/01/24). List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Rangeland Improvement Act created in Section 4-20-101.

(4) The Percent-for-Art Program created in Section 9-6-404.

(5) The LeRay McAllister Working Farm and Ranch Fund created in Section 4-46-301.

(6) The Utah Lake Authority created in Section 11-65-201.

(7) Dedicated credits accrued to the Utah Marriage Commission as provided under

SB0097S04 compared with SB0097S03

Subsection 17-16-21(2)(d)(ii).

(8) The Wildlife Land and Water Acquisition Program created in Section 23A-6-205.

(9) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26B-3-108(7).

(10) The Emergency Medical Services Grant Program in Section 26B-4-107.

(11) The primary care grant program created in Section 26B-4-310.

(12) The Opiate Overdose Outreach Pilot Program created in Section 26B-4-512.

(13) The Utah Health Care Workforce Financial Assistance Program created in Section 26B-4-702.

(14) The Rural Physician Loan Repayment Program created in Section 26B-4-703.

(15) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26B-4-707;

(b) provision of medical residency grants described in Section 26B-4-711; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26B-4-712.

(16) The Division of Services for People with Disabilities, as provided in Section 26B-6-402.

(17) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection 32B-2-301(8)(a) or (b).

(18) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(19) The Utah National Guard, created in Title 39A, National Guard and Militia Act.

(20) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(21) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(22) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

(23) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(6).

(24) The Division of Fleet Operations for the purpose of upgrading underground

SB0097S04 compared with SB0097S03

storage tanks under Section 63A-9-401.

(25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(26) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

(27) The State Capitol Preservation Board created by Section [~~63C-9-201~~] 63O-2-201.

(28) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(29) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

(30) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(31) The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(32) County correctional facility contracting program for state inmates as described in Section 64-13e-103.

(33) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(34) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

(35) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(36) The Traffic Noise Abatement Program created in Section 72-6-112.

(37) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

(38) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(39) A state rehabilitative employment program, as provided in Section 78A-6-210.

(40) The Utah Geological Survey, as provided in Section 79-3-401.

(41) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(42) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

SB0097S04 compared with SB0097S03

(43) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(44) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

(45) The State Tax Commission for reimbursing counties for deferred property taxes in accordance with Section 59-2-1802.5.

(46) The Veterinarian Education Loan Repayment Program created in Section 4-2-902. Section 32. Section **63J-1-602.2 (Effective 07/01/24)** is amended to read:

63J-1-602.2 (Effective 07/01/24). List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

- (1) The Legislature and the Legislature's committees.
- (2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.
- (3) The Rangeland Improvement Act created in Section 4-20-101.
- (4) The Percent-for-Art Program created in Section 9-6-404.
- (5) The LeRay McAllister Working Farm and Ranch Fund created in Section 4-46-301.
- (6) The Utah Lake Authority created in Section 11-65-201.
- (7) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).
- (8) The Wildlife Land and Water Acquisition Program created in Section 23A-6-205.
- (9) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26B-3-108(7).
- (10) The primary care grant program created in Section 26B-4-310.
- (11) The Opiate Overdose Outreach Pilot Program created in Section 26B-4-512.
- (12) The Utah Health Care Workforce Financial Assistance Program created in Section 26B-4-702.
- (13) The Rural Physician Loan Repayment Program created in Section 26B-4-703.
- (14) The Utah Medical Education Council for the:

SB0097S04 compared with SB0097S03

- (a) administration of the Utah Medical Education Program created in Section 26B-4-707;
 - (b) provision of medical residency grants described in Section 26B-4-711; and
 - (c) provision of the forensic psychiatric fellowship grant described in Section 26B-4-712.
- (15) The Division of Services for People with Disabilities, as provided in Section 26B-6-402.
 - (16) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection 32B-2-301(8)(a) or (b).
 - (17) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.
 - (18) The Utah National Guard, created in Title 39A, National Guard and Militia Act.
 - (19) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.
 - (20) The Emergency Medical Services Grant Program in Section 53-2d-207.
 - (21) The Motorcycle Rider Education Program, as provided in Section 53-3-905.
 - (22) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.
 - (23) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(6).
 - (24) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.
 - (25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.
 - (26) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.
 - (27) The State Capitol Preservation Board created by Section [~~63C-9-201~~] 63O-2-201.
 - (28) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.
 - (29) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.
 - (30) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act,

SB0097S04 compared with SB0097S03

as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(31) The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(32) County correctional facility contracting program for state inmates as described in Section 64-13e-103.

(33) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(34) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

(35) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(36) The Traffic Noise Abatement Program created in Section 72-6-112.

(37) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

(38) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(39) A state rehabilitative employment program, as provided in Section 78A-6-210.

(40) The Utah Geological Survey, as provided in Section 79-3-401.

(41) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(42) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(43) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(44) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

(45) The State Tax Commission for reimbursing counties for deferred property taxes in accordance with Section 59-2-1802.5.

(46) The Veterinarian Education Loan Repayment Program created in Section 4-2-902. Section 33. Section **63O-1-101** is enacted to read:

SB0097S04 compared with SB0097S03

TITLE 63O. CAPITOL HILL

CHAPTER 1. CONTROL AND MAINTENANCE OF CAPITOL HILL

Part 1. General Provisions

63O-1-101. Definitions.

As used in this title:

- (1) "Architectural integrity" means the architectural elements, materials, color, and quality of the original building construction.
- (2) "Area of joint control" means all areas that are specified under this chapter as being under the direction and control of both the Legislature and the governor.
- (3) "Board" means the State Capitol Preservation Board created in Section 63C-9-201.
- (4) "Capitol hill" means the following, in Salt Lake City:
 - (a) the grounds, monuments, parking areas, buildings, structures, and other man-made and natural objects within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard;
 - (b) the White Community Memorial Chapel, including the grounds, monuments, parking areas, buildings, structures, and other man-made and natural objects on the property;
 - (c) the Council Hall Travel Information Center, including the grounds, monuments, parking areas, buildings, structures, and other man-made and natural objects on the property;
 - (d) the Daughters of the Utah Pioneers Building and the Carriage House, including:
 - (i) the grounds, monuments, parking areas, buildings, structures, and other man-made and natural objects on the property; and
 - (ii) the other state-owned property within the area bounded by Columbus Street, North Main Street, and Apricot Avenue;
 - (e) the Central Plant, located to the southeast of the intersection of 500 North and Columbus Street;
 - (f) the state-owned property within the area bounded by Columbus Street, Wall Street, and 400 North Street; and
 - (g) the state-owned property within the area bounded by Columbus Street, West Capitol Street, and 500 North Street.
- (5) "Governor's area" means all areas, other than an area of joint control, that are specified under this chapter as being under the direction and control of the governor.

SB0097S04 compared with SB0097S03

(6) "House Building" means the west building on capitol hill that is located northwest of the State Capitol, southwest of the North Building, and west of the Senate Building.

(7) "Legislative area" means all areas, other than an area of joint control, that are specified under this chapter as being under the direction and control of the Legislature.

(8) "Legislative day" means:

(a) a day during the annual general session of the Legislature;

(b) a day during a special session of the Legislature;

(c) a day during which the House of Representatives is convened under Utah Constitution, Article VI, Section 17;

(d) a day during which the Senate is convened under Utah Constitution, Article VI, Section 18;

(e) a day during a veto override session; or

(f) a day designated by the Legislative Management Committee as a legislative day for meetings of the House of Representatives, the Senate, or a committee, task force, caucus, or other group of the legislative branch.

(9) "North Building" means the building on capitol hill that is located north of the State Capitol, northeast of the House Building, and northwest of the Senate Building.

(10) "Senate Building" means the building on capitol hill that is located northeast of the State Capitol, southeast of the North Building, and east of the House Building.

(11) "State Capitol" means the building dedicated as the Utah State Capitol in 1916.

(12) (a) "Tunnels" means all utility and security tunnels, corridors, and hallways on the basement level of capitol hill.

(b) "Tunnels" does not include the underground parking.

Section 34. Section **63O-1-201** is enacted to read:

Part 2. Buildings, Structures, and Grounds

63O-1-201. Capitol building -- Direction and control.

(1) In the basement of the State Capitol:

(a) except as provided in Subsections (1)(b) and (c), the entire basement is under the direction and control of the board, which shall allocate space, as needed, for security offices, the Supreme Court, and others;

(b) the following areas are under the direction and control of the Legislature:

SB0097S04 compared with SB0097S03

(i) the Legislative Printing office and Bill Room;

(ii) the Sergeant Lounge; and

(iii) the press room; and

(c) the following areas in the southwest corner are under the direction and control of the governor:

(i) the governor's parking area;

(ii) the operations center;

(iii) the executive suite; and

(iv) the executive detail area.

(2) On the first floor of the State Capitol:

(a) the following are under the direction and control of the governor:

(i) the office suites located on the northwest and southwest sides; and

(ii) the dignitary holding area and elevator, which the Legislature may schedule through the Utah Highway Patrol Dignitary Protection Bureau;

(b) suite 180, in the southeast corner, is under the direction and control of the board and assigned for the use of the state treasurer; and

(c) the following are under the direction and control of the board:

(i) the board offices, located in suite 120, immediately to the east of the State Capitol's north entrance;

(ii) the Visitor Services Office, located in suite 130, immediately to the west of the State Capitol's north entrance;

(iii) the vending room to the south of the Visitor Services Office;

(iv) all vestibules, and the room on the east of the south vestibule;

(v) the public area beneath the rotunda and the adjacent public areas;

(vi) all conference rooms and storage rooms accessed from the areas described in

Subsection (2)(c)(v);

(vii) suite 110, to the south of the board offices;

(viii) the Visitors Center; and

(ix) the Presentation Room.

(3) On the second floor of the State Capitol:

(a) suite 250, in the northeast corner, is under the direction and control of the

SB0097S04 compared with SB0097S03

Legislature:

(b) before ~~{July}~~ January 1, ~~{2024}~~ 2025, suite 260, to the west of suite 250, is under the direction and control of the board and assigned for the use of the state auditor;

(c) beginning on ~~{July}~~ January 1, ~~{2024}~~ 2025, suite 260, to the west of suite 250, is under the direction and control of the board and assigned for the use of the state auditor, until a substantially similar space in the State Capitol is assigned to the state auditor, after which suite 260, to the west of suite 250, is under the direction and control of the Legislature;

(d) suite 230, in the southeast corner, is under the direction and control of the board and assigned for the use of the attorney general;

(e) the following are under the direction and control of the governor:

(i) suite ~~{220, to the west of suite 230};~~

~~{ii} suite }200, at the west end of the floor;~~

~~{ii} suite 220, to the west of suite 230; and~~

(iii) suite 270, in the central north area;

(f) the Gold Room, including the adjacent pantry:

(i) is under the direction and control of the governor and the Legislature; and

(ii) is scheduled through the governor, with the governor having scheduling priority;

(g) the Capitol Board Room:

(i) is under the direction and control of the governor and the Legislature; and

(ii) is scheduled through the board, as follows:

(A) on a day other than a legislative day:

(I) the governor and lieutenant governor have first scheduling priority, regardless of whether the Legislature or any other party has already scheduled the room; and

(II) the Legislature has second scheduling priority, regardless of whether a party, other than the governor or lieutenant governor, has already scheduled the room;

(B) on a legislative day:

(I) the Legislature has first scheduling priority, regardless of whether the governor, the lieutenant governor, or any other party has already scheduled the room; and

(II) the governor and lieutenant governor have second scheduling priority, regardless of whether a party, other than the Legislature, has already scheduled the room;

(C) if the reservation of a person who schedules the room is canceled under Subsection

SB0097S04 compared with SB0097S03

(3)(g)(ii)(A) or (B), the board shall give the person as much notice as possible to schedule another site;

(D) subject to Subsection (3)(g)(ii)(A) or (B), other executive branch or judicial branch entities may schedule the room on a first come, first-served, basis; and

(E) subject to Subsection (3)(g)(ii)(A) or (B), and the board's rules for use of capitol hill facilities, other persons may schedule the room on a first come, first-served, basis;

(h) the following areas are under the direction and control of the board:

(i) the grand staircases;

(ii) the rotunda;

(iii) the kitchen adjacent to the Gold Room; and

(iv) the open areas that are:

(A) east of the rotunda to the doors of the Capitol Board Room;

(B) west of the rotunda, to the entrance to the governor's office;

(C) south of the rotunda to the south entrance to the State Capitol; and

(D) north of the rotunda to the north wall.

(4) (a) On the third floor of the State Capitol, the entire floor is under the direction and control of the Legislature, except the areas described in Subsections (6)(a) and (b).

(b) The Supreme Court Chambers will be scheduled by:

(i) the Legislature on a legislative day; and

(ii) the Senate on a day other than a legislative day;

(5) On the fourth floor of the State Capitol, the entire floor is under the direction and control of the Legislature, except that the following areas are under the direction and control of the board:

(a) the areas described in Subsections (6)(a) and (b);

(b) the four art galleries outside of the storage rooms described in Subsection (6)(b);

and

(c) the storage room to the north of the northeast art gallery.

(6) In addition to the areas specified under Subsections (1) through (5) as being under the direction and control of the board, the following areas in the State Capitol are under the direction and control of the board:

(a) the staircases, elevators, public restrooms and the access areas adjacent to them;

SB0097S04 compared with SB0097S03

(b) the interior of the pillars that begin in the open area on the first floor and rise to the fourth floor, including the storage closets;

(c) all areas of the State Capitol above the fourth floor, including the dome and roof;
and

(d) the other areas of the State Capitol not specified under this section as being under the direction or control of the governor or the Legislature.

(7) (a) Before October 1, 2024, the governor, the state auditor, the attorney general, the state treasurer, the president of the Senate, and the speaker of the House of Representatives shall assess the use of space in the State Capitol to determine the best use of the space, including the space currently used by:

(~~f~~a*i*) the governor;

(~~f~~b*ii*) the lieutenant governor;

(~~f~~c*iii*) the Elections Office;

(~~f~~d*iv*) the Senate;

(~~f~~e*v*) the House of Representatives;

(~~f~~f*vi*) the attorney general;

(~~f~~g*vii*) the state auditor; and

(~~f~~h*viii*) the state treasurer.

(b) In making the assessment described in Subsection (7)(a), priority for space in the capitol is given to the Legislature, the governor, the lieutenant governor, the attorney general, the state auditor, and the state treasurer.

Section 35. Section **63O-1-202** is enacted to read:

63O-1-202. House building -- Direction and control.

The entire House Building is under the direction and control of the Legislature, which may assign certain areas to be used by the executive branch.

Section 36. Section **63O-1-203** is enacted to read:

63O-1-203. Senate building -- Direction and control.

The entire Senate Building is under the direction and control of the Legislature, which may assign certain areas to be used by the executive branch.

Section 37. Section **63O-1-204** is enacted to read:

63O-1-204. North Building -- Direction and control.

SB0097S04 compared with SB0097S03

(1) As used in this section, "department" means the Department of Cultural and Community Engagement, created in Section 9-1-201.

(2) The basement of the North Building is under the direction and control of the board, the majority of which the board will assign for the use of the state museum.

(3) The first floor of the North Building is under the direction and control of the board, part of which the board will assign for the use of the state museum.

(4) On the second floor of the North Building:

(a) except as provided under Subsection (4)(b), the entire floor is under the direction and control of the board, part of which the board will assign for the use of the state museum; and

(b) the conference room on the south side of the floor, to the west of the lounge, is under the direction and control of the Legislature.

(5) The entire third floor of the North Building is under the direction and control of the Legislature.

(6) The entire fourth floor of the North Building is under the direction and control of the Legislature.

(7) All portions of the North Building above the fourth floor are under the direction and control of the board.

(8) The entire atrium in the North Building, from the first floor to the ceiling of the fourth floor, is under the direction and control of the board, including:

(a) the architectural integrity of all areas of the atrium, including:

(i) architectural or design features;

(ii) historic color schemes, decorative finishes, and stenciling;

(iii) decorative light fixtures; and

(iv) flooring; and

(b) the appearance of the atrium, including interior alterations or furnishings that impact the appearance of the atrium.

(9) All stairs, elevators, and restrooms in the North Building are under the direction and control of the board.

Section 38. Section **630-1-205** is enacted to read:

630-1-205. Parking.

SB0097S04 compared with SB0097S03

(1) All surface parking on capitol hill is under the direction and control of the board.

(2) All underground parking on capitol hill is under the direction and control of the Legislature.

(3) Under the direction of the Legislature, the board shall:

(a) maintain and control the use of the first level of the covered parking under the plaza to the north of the North Building, giving a preference for public parking on that level;

(b) except as provided in Subsection (3)(a), maintain and control the use of the covered parking under the plaza to the north of the North Building for use by the legislative branch; and

(c) designate portions of parking used by the Legislature on legislative days for use by the executive branch on days other than legislative days.

Section 39. Section **63O-1-206** is enacted to read:

63O-1-206. Grounds, buildings, and other structures.

The following are under the direction and control of the board:

(1) the White Memorial Chapel, including the areas and objects described in Subsection 63O-1-101(4)(b);

(2) the Council Hall Travel Information Center, including the areas and objects described in Subsection 63O-1-101(4)(c);

(3) the Daughters of the Utah Pioneers Building, including the Carriage House and the areas and objects described in Subsection 63O-1-101(4)(d);

(4) the Central Plant;

(5) the belvedere to the north of the North Plaza;

(6) the stair towers;

(7) the tunnels; and

(8) except as expressly provided otherwise in this chapter, all grounds, buildings, structures, monuments, plants, and other natural or man-made features on capitol hill.

Section 40. Section **63O-1-301** is enacted to read:

63O-1-301. Board responsibility and shared responsibility.

(1) The following are the responsibility of the board:

(a) the architectural integrity of all areas of capitol hill, including:

(i) restored historic architectural or design features;

(ii) historic color schemes, decorative finishes, and stenciling;

SB0097S04 compared with SB0097S03

(iii) decorative light fixtures; and

(iv) flooring;

(b) the exterior appearance of all buildings and structures on capitol hill, including interior alterations or furnishings that impact the exterior appearance;

(c) for the State Capitol, House Building, Senate Building, and North Building:

(i) control of the central mechanical and electrical core on all floors;

(ii) control of the enclosure of the building, from the exterior of the building to the interior of the exterior wall;

(iii) public restrooms;

(iv) the roof; and

(v) public elevators and stairways;

(d) in relation to the legislative area, the functions that the Legislative Management Committee delegates in writing to be performed by the board; and

(e) in relation to the governor's area, the functions that the governor delegates in writing to be performed by the board.

(2) The data and communications centers in the buildings and structures on capitol hill:

(a) that are associated with the Legislature are maintained by the board under the direction of the Legislature;

(b) that are associated with the executive branch are maintained by the board under the direction of the governor; and

(c) that are associated with both the Legislature and the executive branch are maintained by the board under the direction of the Legislature and the governor.

(3) The board shall maintain:

(a) all areas under the direction and control of the board;

(b) as directed by the Legislature, all areas under the direction and control of the Legislature;

(c) as directed by the governor, all areas under the direction and control of the governor; and

(d) as directed by the state treasurer, state auditor, or attorney general, all areas under the respective control of those elected officials.

(4) Any alteration that involves interior or exterior construction on capitol hill shall be

SB0097S04 compared with SB0097S03

done in coordination with the executive director of the board.

Section 41. Section **63O-1-302** is enacted to read:

63O-1-302. Jurisdiction and use of areas under the direction and control of the Legislature.

(1) The legislative area is reserved for the use and occupancy of the Legislature for legislative functions.

(2) Except as provided in Section 63O-1-301, the Legislative Management Committee shall exercise jurisdiction over the legislative area.

Section 42. Section **63O-1-303** is enacted to read:

63O-1-303. Jurisdiction and use of areas under the direction and control of the governor.

(1) The governor's area is reserved for the use and occupancy of the executive branch for executive functions.

(2) Except as provided in Section 63O-1-301, the governor shall exercise jurisdiction over the governor's area.

Section 43. Section **63O-2-101**, which is renumbered from Section 63C-9-102 is renumbered and amended to read:

CHAPTER 2. STATE CAPITOL PRESERVATION BOARD

Part 1. General Provisions

~~[63C-9-102].~~ **63O-2-101. Definitions.**

~~[(1) "Board" means the State Capitol Preservation Board created by Section 63C-9-201.]~~

~~[(2) "Capitol hill complex" means the grounds, monuments, parking areas, buildings, including the capitol, and other man-made and natural objects within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard, and includes:]~~

~~[(a) the White Community Memorial Chapel and its grounds and parking areas, and the Council Hall Travel Information Center building and its grounds and parking areas;]~~

~~[(b) the Daughters of the Utah Pioneers building and its grounds and parking areas and other state-owned property included within the area bounded by Columbus Street, North Main Street, and Apricot Avenue;]~~

~~[(c) the state-owned property included within the area bounded by Columbus Street,~~

SB0097S04 compared with SB0097S03

~~Wall Street, and 400 North Street, and]~~

~~[(d) the state-owned property included within the area bounded by Columbus Street, West Capitol Street, and 500 North Street.]~~

~~[(3) "Capitol hill facilities" means all of the buildings on the capitol hill complex, including the capitol, and the exterior steps, entrances, streets, parking areas, and other paved areas of capitol hill.]~~

~~[(4) "Capitol hill grounds" means the unpaved areas of the capitol hill complex. (5) "Executive director"]~~ As used in this chapter, "executive director" means the executive director appointed by the board under Section [63C-9-401] 63O-2-401.

Section 44. Section **63O-2-201**, which is renumbered from Section 63C-9-201 is renumbered and amended to read:

Part 2. State Capitol Preservation Board - Creation, Membership, and Terms

~~[63C-9-201].~~ **63O-2-201. State Capitol Preservation Board -- Creation --**

Membership.

- (1) There is created the State Capitol Preservation Board.
- (2) The board shall consist of the following 11 members:
 - (a) the governor, or the lieutenant governor acting as the governor's designee;
 - (b) the president of the Senate or the president's designee, who shall be a member of the Senate;
 - (c) the speaker of the House of Representatives or the speaker's designee, who shall be a member of the House of Representatives;
 - (d) the state treasurer;
 - (e) the state attorney general;
 - (f) two members of the Senate appointed by the president of the Senate, one from the majority party and one from the minority party;
 - (g) two members of the House of Representatives appointed by the speaker of the House of Representatives, one from the majority party and one from the minority party;
 - (h) the chief justice of the Supreme Court or the chief justice's designee, who shall be a member of the Supreme Court; and
 - (i) the state historic preservation officer.

Section 45. Section **63O-2-202**, which is renumbered from Section 63C-9-202 is

SB0097S04 compared with SB0097S03

renumbered and amended to read:

~~[63C-9-202].~~ **63O-2-202.** **Terms -- Vacancies -- Chair -- Vice chair -- Meetings -- Compensation.**

(1) (a) The governor, president of the Senate, speaker of the House, chief justice, state treasurer, state attorney general, and state historic preservation officer shall serve terms coterminous with their office.

(b) The other members shall serve two-year terms.

(2) Vacancies in the appointed positions shall be filled by the original appointing authority for the unexpired term.

(3) (a) Except as provided in Subsection (3)(b), the governor is chair of the board.

(b) When the governor is absent from meetings of the board, the vice chair is chair of the board.

(c) The governor shall appoint a member of the board to serve as vice chair with the approval of a majority of the members of the board.

(4) The board shall meet at least quarterly and at other times at the call of the governor or at the request of four members of the board.

(5) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 46. Section **63O-2-301**, which is renumbered from Section 63C-9-301 is renumbered and amended to read:

Part 3. State Capitol Preservation Board - Powers and Duties

~~[63C-9-301].~~ **63O-2-301.** **Board powers -- Subcommittees.**

(1) The board shall: ~~{u}~~

(a) except as ~~[provided in Subsection (2)]~~ otherwise provided in Chapter 1, Control and Maintenance of Capitol Hill, exercise complete jurisdiction and stewardship over capitol hill

SB0097S04 compared with SB0097S03

facilities, capitol hill grounds, and the capitol hill complex;

(b) preserve, maintain, and restore the capitol hill complex, capitol hill facilities, capitol hill grounds, and their contents;

(c) before October 1 of each year, review and approve the executive director's annual budget request for submittal to the governor and Legislature;

(d) ~~[by]~~ on or before October 1 of each year, prepare and submit a recommended budget request for the upcoming fiscal year for the capitol hill complex to:

(i) the governor, through the Governor's Office of Planning and Budget; and

(ii) the Legislature's appropriations subcommittee responsible for capitol hill facilities, through the Office of the Legislative Fiscal Analyst;

(e) review and approve the executive director's:

(i) annual work plan;

(ii) long-range master plan for the capitol hill complex, capitol hill facilities, and capitol hill grounds; and

(iii) furnishings plan for placement and care of objects under the care of the board;

(f) approve all changes to the buildings and their grounds, including:

(i) restoration, remodeling, and rehabilitation projects;

(ii) usual maintenance program; and

(iii) any transfers or loans of objects under the board's care;

(g) define and identify all significant aspects of [~~the capitol hill complex, capitol hill facilities, and capitol hill grounds~~] capitol hill, after consultation with the:

(i) Division of Facilities Construction and Management;

(ii) State Library Division;

(iii) Division of Archives and Records Service;

(iv) Utah Historical Society;

(v) Office of Museum Services; and

(vi) Arts Council;

(h) inventory, define, and identify all significant contents of the buildings and all state-owned items of historical significance that were at one time in the buildings, after consultation with the:

(i) Division of Facilities Construction and Management;

SB0097S04 compared with SB0097S03

- (ii) State Library Division;
- (iii) Division of Archives and Records Service;
- (iv) Utah Historical Society;
- (v) Office of Museum Services; and
- (vi) Arts Council;

(i) maintain archives relating to the construction and development of the buildings, the contents of the buildings and ~~[their]~~ the grounds, including ~~[documents such as]~~ plans, specifications, photographs, purchase orders, and other related documents, the original copies of which shall be maintained by the Division of Archives and Records Service;

(j) comply with federal and state laws related to program and facility accessibility; and

(k) establish procedures for receiving, hearing, and deciding complaints or other issues raised about ~~[the capitol hill complex, capitol hill facilities, and capitol hill grounds, or their use]~~ capitol hill and the use of capitol hill.

~~[(2)(a) Notwithstanding Subsection (1)(a), the supervision and control of the legislative area, as defined in Section 36-5-1, is reserved to the Legislature; and]~~

~~[(b) the supervision and control of the governor's area, as defined in Section 67-1-16, is reserved to the governor.]~~

~~[(3)]~~ (2) (a) The board shall make rules to govern, administer, and regulate ~~[the capitol hill complex, capitol hill facilities, and capitol hill grounds by following the procedures and requirements of]~~ capitol hill, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) A violation of a rule relating to the use of ~~[the capitol hill complex]~~ capitol hill adopted by the board under the authority of this Subsection ~~[(3)]~~ (2) is an infraction.

(c) If an act violating a rule under Subsection ~~[(3)(b)]~~ (2)(b) also amounts to an offense subject to a greater penalty under this title, Title 32B, Alcoholic Beverage Control Act, Title 41, Motor Vehicles, Title 76, Utah Criminal Code, or other provision of state law, Subsection (3)(b) does not prohibit prosecution and sentencing for the more serious offense.

(d) In addition to any punishment allowed under Subsections ~~[(3)(b) and (c)]~~ (2)(b) and (c), a person who violates a rule adopted by the board under the authority of this Subsection ~~[(3)]~~ (2) is subject to a civil penalty not to exceed \$2,500 for each violation, plus the amount of any actual damages, expenses, and costs related to the violation of the rule that are incurred by

SB0097S04 compared with SB0097S03

the state.

(e) The board may take any other legal action allowed by law.

(f) The board may not apply this section or rules adopted under the authority of this section in a manner that violates a person's rights under the Utah Constitution or the First Amendment to the United States Constitution, including the right of persons to peaceably assemble.

(g) The board shall send proposed rules under this section to the legislative general counsel and the governor's general counsel for review and comment before the board adopts the rules.

~~[(4)]~~ (3) The board is exempt from the requirements of Title 63G, Chapter 6a, Utah Procurement Code, but shall adopt procurement rules substantially similar to the requirements of that chapter.

~~[(5)]~~ (4) The board shall name:

(a) the House Building~~[, that is defined in Section 36-5-1,]~~ the "Rebecca D. Lockhart House Building"; and

(b) committee room 210 in the Senate Building~~[, that is defined in Section 36-5-1,]~~ the "Allyson W. Gamble Committee Room_ "[:]

~~[(6)]~~ (5) (a) The board may:

(i) establish subcommittees made up of board members and members of the public to assist and support the executive director in accomplishing the executive director's duties;

(ii) establish fees for the use of capitol hill facilities and ~~[capitol hill]~~ grounds;

(iii) assign and allocate specific duties and responsibilities to any other state agency, if the other agency agrees to perform the duty or accept the responsibility;

(iv) contract with another state agency to provide services;

(v) delegate by specific motion of the board any authority granted to ~~[it by]~~ the board under this section to the executive director;

(vi) in conjunction with Salt Lake City, expend money to improve or maintain public property contiguous to East Capitol Boulevard and capitol hill;

(vii) provide wireless Internet service to the public without a fee in any capitol hill facility; and

(viii) when necessary, consult with the:

SB0097S04 compared with SB0097S03

- (A) Division of Facilities Construction and Management;
- (B) State Library Division;
- (C) Division of Archives and Records Service;
- (D) Utah Historical Society;
- (E) Office of Museum Services; and
- (F) Arts Council.

(b) The board's provision of wireless Internet service under Subsection [~~(6)(a)(vii)~~] (5)(a)(vii) shall be discontinued in the legislative area if the president of the Senate and the speaker of the House of Representatives each submit a signed letter to the board indicating that the service is disruptive to the legislative process and is to be discontinued.

(c) If a budget subcommittee is established by the board, the following shall serve as ex officio, nonvoting members of the budget subcommittee:

(i) the legislative fiscal analyst, or the analyst's designee, who shall be from the Office of the Legislative Fiscal Analyst; and

(ii) the executive director of the Governor's Office of Planning and Budget, or the executive director's designee, who shall be from the Governor's Office of Planning and Budget.

(d) If a preservation and maintenance subcommittee is established by the board, the board may, by majority vote, appoint one or each of the following to serve on the subcommittee as voting members of the subcommittee:

(i) an architect, who shall be selected from a list of three architects submitted by the American Institute of Architects; or

(ii) an engineer, who shall be selected from a list of three engineers submitted by the American Civil Engineers Council.

(e) If the board establishes any subcommittees, the board may, by majority vote, appoint up to two people who are not members of the board to serve, at the will of the board, as nonvoting members of a subcommittee.

(f) Members of each subcommittee shall, at the first meeting of each calendar year, select one individual to act as chair of the subcommittee for a one-year term.

[~~(7)~~] (6) (a) The board, and the employees of the board, may not move the office of the governor, lieutenant governor, president of the Senate, speaker of the House of Representatives, or a member of the Legislature from the State Capitol unless the removal is

SB0097S04 compared with SB0097S03

approved by:

(i) the governor, in the case of the governor's office;
(ii) the lieutenant governor, in the case of the lieutenant governor's office;
(iii) the president of the Senate, in the case of the president's office or the office of a member of the Senate; or

(iv) the speaker of the House of Representatives, in the case of the speaker's office or the office of a member of the House.

(b) The board and the employees of the board have no control over the furniture, furnishings, and decorative objects in the offices of the governor, lieutenant governor, or the members of the Legislature except as necessary to inventory or conserve items of historical significance owned by the state.

(c) The board and the employees of the board have no control over records and documents produced by or in the custody of a state agency, official, or employee having an office in a building on [the] capitol hill [complex].

(d) Except for items identified by the board as having historical significance, and except as provided in Subsection [(7)(b)] (6)(b), the board and the employees of the board have no control over moveable furnishings and equipment in the custody of a state agency, official, or employee having an office in a building on [the] capitol hill [complex].

Section 47. Section **63O-2-401**, which is renumbered from Section 63C-9-401 is renumbered and amended to read:

Part 4. Executive Director

~~[63C-9-401].~~ **63O-2-401. Executive director.**

The board shall:

(1) appoint an executive director to assist the board in performing [~~its duties under this chapter~~] the duties of the board;

(2) (a) require the budget and operations subcommittee to review and make recommendations to the board regarding:

(i) the executive director's annual performance; and
(ii) the executive director's suggestions for staff, including staff duties, performance, compensation, and personnel;

(b) approve, deny, or modify the subcommittee's recommendations, which shall be

SB0097S04 compared with SB0097S03

submitted to the board before the board submits [its] budget recommendations under Subsections [~~63C-9-301(1)(c) and (d)~~] 63O-2-301(1)(c) and (d); and

(c) make rules governing the review, compensation, and bonus process for the executive director and staff.

Section 48. Section **63O-2-402**, which is renumbered from Section 63C-9-402 is renumbered and amended to read:

~~[63C-9-402].~~ **63O-2-402. Executive director -- Duties.**

The executive director shall:

(1) develop, for board approval, a master plan with a projection of at least 20 years concerning the stewardship responsibilities, operation, activities, maintenance, preservation, restoration, and modification of [~~the capitol hill complex, capitol hill facilities, and capitol hill grounds~~] capitol hill, including, if directed by the board, a plan to restore the buildings to their original architecture;

(2) develop, as part of the master plan submitted for board approval, a furnishings plan for the placement and care of objects under the care of the board;

(3) prepare, and recommend for board approval, an annual budget and work plan, that is consistent with the master plan, for all work to be performed under this chapter, including usual operations and maintenance and janitorial and preventative maintenance for [~~the capitol hill complex, capitol hill facilities, capitol hill grounds, and their contents~~] capitol hill and the contents of capitol hill;

(4) develop an operations, maintenance, and janitorial program for [~~the capitol hill complex, capitol hill facilities, capitol hill grounds, and their contents~~] capitol hill and the contents of capitol hill;

(5) develop a program to purchase or accept by donation, permanent loan, or outside funding items necessary to implement the master plan;

(6) develop and maintain a registration system and inventory of the contents of [~~the~~] capitol hill facilities and [~~capitol hill~~] grounds and of the original documents relating to the buildings' construction and alteration;

(7) develop a program to purchase or accept by donation, permanent loan, or outside funding items of historical significance that were at one time in the capitol hill facilities and that are not owned by the state;

SB0097S04 compared with SB0097S03

- (8) develop a program to locate and acquire state-owned items of historical significance that were at one time in the buildings;
 - (9) develop a collections policy regarding the items of historic significance as identified in the registration system and inventory for the approval of the board;
 - (10) assist in matters dealing with the preservation of historic materials;
 - (11) make recommendations on conservation needs and make arrangements to contract for conservation services for objects of significance;
 - (12) make recommendations for the transfer or loan of objects of significance as detailed in the approved collections policy;
 - (13) make recommendations to transfer, sell, or otherwise dispose of unused surplus property that is not of significance as defined in the collections policy and by the registration system;
 - (14) approve all art and exhibits placed on capitol hill after board approval;
 - (15) employ staff to assist ~~[him]~~ in administering this chapter and direct and coordinate ~~[their]~~ the staff's activities;
 - (16) contract for professional services of qualified consultants, including architectural historians, landscape architects with experience in landscape architectural preservation, conservators, historians, historic architects, engineers, artists, exhibit designers, and craftsmen;
 - (17) prepare annually a complete and detailed written report for the board that accounts for all funds received and disbursed by the board during the preceding fiscal year;
 - (18) develop and manage a visitor services program for capitol hill which shall include public outreach programs, public tours, events, and communication and public relation services; and
 - (19) subject to Section 63O-1-205, manage and organize all transit and parking programs on ~~[the]~~ capitol hill ~~[complex, except that:]~~.
- ~~[(a) the Legislative Management Committee shall direct the executive director's management and organization of transit and parking associated with the legislative area as defined in Section 36-5-1; and]~~
- ~~[(b) the governor shall direct the executive director's management and organization of transit and parking associated with the governor's area as defined in Section 67-1-16.]~~
- Section 49. Section **63O-2-403**, which is renumbered from Section 63C-9-403 is

SB0097S04 compared with SB0097S03

renumbered and amended to read:

~~[63C-9-403].~~ 63O-2-403. **Contracting power of executive director --**

Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the board, or on behalf of the board, on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than \$2,000,000; and

SB0097S04 compared with SB0097S03

(b) a subcontractor of a contractor of a design or construction contract entered into by the board, or on behalf of the board, on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

- (a) the application of this section jeopardizes the receipt of federal funds;
- (b) the contract is a sole source contract; or
- (c) the contract is an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the executive director a written statement that:

(i) the contractor offers qualified health coverage that complies with Section 26B-3-909;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by the administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the health benefit plan's actuarial value meets the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by the administrator, as described in Subsection

SB0097S04 compared with SB0097S03

(5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the executive director.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section 26B-3-909;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage as described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the division under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall [~~adopt administrative~~] make rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

SB0097S04 compared with SB0097S03

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) a public transit district in accordance with Section 17B-2a-818.5;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review and General Oversight Committee;

and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent

SB0097S04 compared with SB0097S03

benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of Health and Human Services, in accordance with Subsection 26B-3-909(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26B-1-309.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including the administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good

SB0097S04 compared with SB0097S03

faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 50. Section **63O-2-501**, which is renumbered from Section 63C-9-501 is renumbered and amended to read:

Part 5. Fundraising and Donations

~~[63C-9-501].~~ **63O-2-501. Soliciting donations.**

(1) The executive director, under the direction of the board, shall:

(a) develop plans and programs to solicit gifts, money, and items of value from private persons, foundations, or organizations; and

(b) actively solicit donations from those persons and entities.

(2) (a) Property provided by those entities is the property of the state and is under the control of the board.

(b) Subsection (2)(a) does not apply to temporary exhibits or to the personal property of persons having an office in a building on capitol hill.

(3) The board:

(a) shall deposit money donated to the board into the State Capitol Preservation Board budget as expendable receipts;

(b) shall use gifts of money made to the board for the purpose specified by the grantor, if any; and

(c) may return to the donor any gift or money donated to the board if a majority of the board determines that use of the gift or money is unfeasible, or will otherwise not be placed or used on capitol hill.

Section 51. Section **63O-2-601**, which is renumbered from Section 63C-9-601 is renumbered and amended to read:

Part 6. Furnishings, Fixtures, and Other Items

~~[63C-9-601].~~ **63O-2-601. Responsibility for items.**

Furniture, furnishings, fixtures, works of art, and decorative objects for which the board has responsibility under this chapter are not subject to the custody or control of the State Library Board, the State Library Division, the Division of Archives and Records Service, the Utah Historical Society, the Division of Arts and Museums, the arts collection committee of

SB0097S04 compared with SB0097S03

the State of Utah Alice Merrill Horne Art Collection, or any other state agency.

Section 52. Section **63O-2-602**, which is renumbered from Section 63C-9-602 is renumbered and amended to read:

~~[63C-9-602].~~ **63O-2-602. Transfer of certain historical items.**

(1) (a) A state agency or other state entity that possesses a state-owned item identified by the executive director and the board as an item of historical significance that was at one time located in the capitol hill facilities shall transfer the item to the inventory of the board at the direction of the executive director not later than the 60th day after the date that the executive director notifies the agency or entity.

(b) The state agency or other state entity shall subsequently transfer physical possession of the item to the board in accordance with policies and procedures established by the board.

(2) This section does not apply to records or documents in the custody of the Division of Archives and Records Service.

Section 53. Section **72-6-107.5** is amended to read:

72-6-107.5. Construction of improvements of highway -- Contracts -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29

SB0097S04 compared with SB0097S03

U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the department on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than \$2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the department that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the department a written statement that:

(i) the contractor offers qualified health coverage that complies with Section 26B-3-909;

(ii) is from:

SB0097S04 compared with SB0097S03

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the department.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section 26B-3-909;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the

SB0097S04 compared with SB0097S03

statement.

(d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section [~~63C-9-403~~]
63O-2-403;

(v) a public transit district in accordance with Section 17B-2a-818.5; and

(vi) the Legislature's Administrative Rules Review and General Oversight Committee;

and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

SB0097S04 compared with SB0097S03

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for an employee and a dependent of the employee of the contractor or subcontractor who was not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of Health and Human Services, in accordance with Subsection 26B-3-909(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26B-1-309.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as

SB0097S04 compared with SB0097S03

required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 54. Section **79-2-404** is amended to read:

79-2-404. Contracting powers of department -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

SB0097S04 compared with SB0097S03

- (i) the same as that term is defined in Section 31A-1-301; or
- (ii) an employee welfare benefit plan:
 - (A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;
 - (B) for an employer with 100 or more employees; and
 - (C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.
- (e) "Qualified health coverage" means the same as that term is defined in Section 26B-3-909.
- (f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.
- (g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.
- (2) Except as provided in Subsection (3), the requirements of this section apply to:
 - (a) a contractor of a design or construction contract entered into by, or delegated to, the department or a division, board, or council of the department on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than \$2,000,000; and
 - (b) a subcontractor of a contractor of a design or construction contract entered into by, or delegated to, the department or a division, board, or council of the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.
- (3) This section does not apply to contracts entered into by the department or a division, board, or council of the department if:
 - (a) the application of this section jeopardizes the receipt of federal funds;
 - (b) the contract or agreement is between:
 - (i) the department or a division, board, or council of the department; and
 - (ii) (A) another agency of the state;
 - (B) the federal government;
 - (C) another state;
 - (D) an interstate agency;
 - (E) a political subdivision of this state; or
 - (F) a political subdivision of another state; or

SB0097S04 compared with SB0097S03

(c) the contract or agreement is:

(i) for the purpose of disbursing grants or loans authorized by statute;

(ii) a sole source contract; or

(iii) an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the department that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the department a written statement that:

(i) the contractor offers qualified health coverage that complies with Section 26B-3-909;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the department.

(c) A contractor that is subject to the requirements of this section shall:

SB0097S04 compared with SB0097S03

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section 26B-3-909;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) a public transit district in accordance with Section 17B-2a-818.5;

(iii) the Division of Facilities Construction and Management in accordance with

SB0097S04 compared with SB0097S03

Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section [~~63C-9-403~~]
63O-2-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review and General Oversight Committee;

and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for an employee and a dependent of an employee of the contractor or subcontractor who was not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), provided by the Department of Health and Human Services, in accordance with Subsection 26B-3-909(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor

SB0097S04 compared with SB0097S03

or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26B-1-309.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

SB0097S04 compared with SB0097S03

Section 55. **Repealer.**

This bill repeals:

Section 36-2-1, **Legislative in-session employees.**

Section 36-5-1, **Reservation of area for Legislature -- Duties of Legislative Management Committee.**

Section 36-12-2, **Standing committees.**

Section 36-12-3, **Interim committees -- Membership -- Purpose -- Meetings and rules.**

Section 36-12-4, **Interim committees of two houses -- Meeting jointly -- Joint rules -- Majority vote.**

Section 36-12-5, **Duties of interim committees.**

Section 36-21-1, **Definition -- Deadline for state governmental entities filing legislation -- Waiver.**

Section 36-34-101, **Statewide elected official summit.**

Section 63C-9-101, **Title.**

Section 67-1-16, **Reservation of area for governor.**

Section 56. **Effective date.**

(1) Except as provided in Subsection (2), ~~f~~ this bill takes effect on May 1, 2024.

(2) ~~f(a)~~ The following sections take effect on July 1, 2024:

~~f(a)~~ Section 63A-5b-303 (Effective 07/01/24); and

~~f(b)~~ Section 63J-1-602.2 (Effective 07/01/24); ~~f~~; and

~~(b) Section 63G-1-503 (Effective 03/09/24) takes effect on March 9, 2024; ~~f~~~~