



Library Laws Of Utah (Utah Code) - 2014

Effective July 1, 2013

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Sections in blue have been amended by the 2013 Utah State Legislature.

(State Library)

9-7-101. Definitions.

As used in this chapter:

- (1) "Division" means the State Library Division.
- (2) "Library board" means the library board of directors appointed locally as authorized by Section **9-7-402** or **9-7-502** and which exercises general policy authority for library services within a city or county of the state, regardless of the title by which it is known locally.
- (3) (a) "Pass-through funding" means funds appropriated by the Legislature to a state agency that are intended to be passed through the state agency to:
 - (i) local governments;
 - (ii) other government agencies;
 - (iii) private organizations, including not-for-profits; or
 - (iv) persons in the form of a loan or grant.(b) The funding may be:
 - (i) general funds, federal funds, dedicated credits, or any combination of funding sources; and
 - (ii) ongoing or one-time.
- (4) "Physical format" means a transportable medium in which analog or digital information is published, such as print, microform, magnetic disk, or optical disk.
- (5) "Policy" means the public library online access policy adopted by a library board to meet the requirements of Section **9-7-215**.
- (6) "Political subdivision" means a county, city, town, school district, public transit district, redevelopment agency, or special improvement or taxing district.
- (7) "State agency" means the state, an office, department, agency, authority, commission, board, institution, hospital, college, university, or other instrumentality of the state.
- (8) (a) "State publication" means a book, compilation, directory, document, contract or grant report, hearing memorandum, journal, law, legislative bill, magazine, map, monograph, order, ordinance, pamphlet, periodical, proceeding, public memorandum, resolution, register, rule, report, statute, audiovisual material, electronic publication, micrographic form and tape or disc recording regardless of format or method of reproduction, issued or published by a state agency or political subdivision for distribution.
 - (b) "State publication" does not include correspondence, internal confidential publications, office memoranda, university press publications, or publications of the state historical society.

Amended by Chapter 111, 2010 General Session

9-7-201. State Library Division -- Creation -- Purpose.

- (1) There is created within the department the State Library Division under the administration and general supervision of the executive director or the designee of the executive director.
- (2) The division shall be under the policy direction of the board.
- (3) The division shall function as the library authority for the state and is responsible for general library services, extension services, the preservation, distribution and exchange of state publications, legislative reference, and other services considered proper for a state library.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-202. Appointment of director.

- (1) The chief administrative officer of the division shall be a director appointed by the executive director with the concurrence of the board.
- (2) The director shall have a degree from an institution approved by the American Library Association in library science and shall have demonstrated administrative ability.

Enacted by Chapter 241, 1992 General Session

9-7-203. Division duties.

- (1) The division shall:
 - (a) establish, operate, and maintain a state publications collection, a digital library of state publications, a bibliographic control system, and depositories as provided in this part;

- (b) cooperate with:
 - (i) other agencies to facilitate public access to government information through electronic networks or other means;
 - (ii) other state or national libraries or library agencies; and
 - (iii) the federal government or agencies in accepting federal aid whether in the form of funds or otherwise;
 - (c) receive bequests, gifts, and endowments of money and deposit the funds with the state treasurer to be placed in the State Library Donation Fund, which funds shall be held for the purpose, if any, specifically directed by the donor; and
 - (d) receive bequests, gifts, and endowments of property to be held, used, or disposed of, as directed by the donor, with the approval of the Division of Finance.
- (2) (a) For a pass-through funding grant of at least \$25,000, the division shall make quarterly disbursements to the pass-through funding grant recipient, contingent upon the division receiving a quarterly progress report from the pass-through grant recipient.
- (b) The division shall:
 - (i) provide the pass-through grant recipient with a progress report form for the reporting purposes of Subsection (2)(a); and
 - (ii) include reporting requirement instructions with the form.

Amended by Chapter 111, 2010 General Session

9-7-204. State Library Board -- Members -- Meetings -- Expenses.

- (1) There is created within the department the State Library Board.
- (2) (a) The board shall consist of nine members appointed by the governor.
- (b) One member shall be appointed on recommendation from each of the following agencies:
 - (i) the State Office of Education;
 - (ii) the Board of Control of the State Law Library;
 - (iii) the Office of Legislative Research and General Counsel; and
 - (iv) the Utah System of Higher Education.
- (c) Of the five remaining members at least two shall be appointed from rural areas.
- (3) (a) Except as required by Subsection (3)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.
- (b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
- (4) The members may not serve more than two full consecutive terms.
- (5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as originally appointed.
- (6) Five members of the board constitute a quorum for conducting board business.
- (7) The governor shall select one of the board members as chair who shall serve for a period of two years.
- (8) The director of the State Library Division shall be executive officer of the board.
- (9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section **63A-3-106**;
 - (b) Section **63A-3-107**; and
 - (c) rules made by the Division of Finance pursuant to Sections **63A-3-106** and **63A-3-107**.

Amended by Chapter 286, 2010 General Session

Amended by Chapter 324, 2010 General Session

9-7-205. Duties of board and director.

- (1) The board shall:
 - (a) promote, develop, and organize a state library and make provisions for its housing;
 - (b) promote and develop library services throughout the state in cooperation with other state or municipal libraries, schools, or other agencies wherever practical;
 - (c) promote the establishment of district, regional, or multicounty libraries as conditions within particular areas of the state may require;

- (d) supervise the books and materials of the state library and require the keeping of careful and complete records of the condition and affairs of the state library;
 - (e) establish policies for the administration of the division and for the control, distribution, and lending of books and materials to those libraries, institutions, groups, or individuals entitled to them under this chapter;
 - (f) serve as the agency of the state for the administration of state or federal funds that may be appropriated to further library development within the state;
 - (g) aid and provide general advisory assistance in the development of statewide school library service and encourage contractual and cooperative relations between school and public libraries;
 - (h) give assistance, advice, and counsel to all tax-supported libraries within the state and to all communities or persons proposing to establish them and conduct courses and institutes on the approved methods of operation, selection of books, or other activities necessary to the proper administration of a library;
 - (i) furnish or contract for the furnishing of library or information service to state officials, state departments, or any groups that in the opinion of the director warrant the furnishing of those services, particularly through the facilities of traveling libraries to those parts of the state otherwise inadequately supplied by libraries;
 - (j) where sufficient need exists and if the director considers it advisable, establish and maintain special departments in the state library to provide services for the blind, visually impaired, persons with disabilities, and professional, occupational, and other groups;
 - (k) administer a depository library program by collecting state publications, and providing a bibliographic information system;
 - (l) require the collection of information and statistics necessary to the work of the state library and the distribution of findings and reports;
 - (m) make any report concerning the activities of the state library to the governor as the governor may require; and
 - (n) develop standards for public libraries.
- (2) (a) By September 30 of each year, the board shall prepare and submit a request to the governor and the Legislature for prioritized capital facilities grants to be awarded to eligible libraries under this chapter.
- (b) The board shall prepare a list of the requested capital facilities grants in a prioritized order and include a written explanation of:
- (i) the total grant amount requested in the list; and
 - (ii) the basis of its prioritization of requested grants on the list.
- (c) The board shall accept applications for capital facilities grants through June 1 of each year, prior to compiling and submitting its yearly request to the governor and Legislature under Subsection (2)(a).
- (3) The director shall, under the policy direction of the board, carry out the responsibilities under Subsection (1).

Amended by Chapter 111, 2010 General Session

9-7-206. State Library Donation Fund -- Deposits and fees.

(1) There is created an expendable special revenue fund entitled the "State Library Donation Fund" to receive bequests, gifts, and endowments of money.

(2) Any interest or proceeds realized from the use or disposition of property received by the division or interest on the fund itself shall be deposited in the State Library Donation Fund and used by the State Library Division for the purposes specified by the donor.

(3) All fees paid to the library and collections made due to damaged books or through sale or exchange of books and other materials shall be deposited in the General Fund as dedicated credits for use by the State Library Division.

Amended by Chapter 400, 2013 General Session

9-7-207. Deposit of state publications.

(1) (a) Each state agency and political subdivision publishing a digital version of a state publication shall deposit a digital copy with the division.

(b) Each state agency and political subdivision shall deposit with the division copies of each state publication that it elects to publish in a physical format in the numbers specified by the state librarian.

(c) The division shall forward two copies of each state publication published in a physical format deposited with it by a state agency to the Library of Congress, one copy to the state archivist, at least one copy to each depository library, and retain two copies.

(2) Each state agency or political subdivision shall deposit with the division a digital copy of each audio and video publication or recording issued by it for bibliographic listing and retention in the digital library.

(3) Each state agency or political subdivision shall deposit with the division copies of audio and video publications or recordings issued by it in physical formats in the numbers specified by the state librarian for bibliographic listing and retention in the state library collection.

(4) (a) The division shall publish or make available to the public through electronic networks a list of state agency publications.

(b) The list shall be published periodically and distributed to depository libraries and the state archivist.

(5) Materials the division considers not to be of major public interest will be listed, but no copies will be required for deposit.

Amended by Chapter 81, 2006 General Session

9-7-208. Digital library for permanent public access.

(1) The division shall manage and maintain an online, web-accessible digital library for state publications.

(2) The division shall provide for permanent public access to the publications in the digital library.

(3) The library shall be accessible by agency, author, title, subject, keyword, and such other means as provided by the division.

(4) (a) Each state agency publishing a digital version of a state publication shall deposit a digital copy of the publication with the division.

(b) A state agency may not remove a state publication it posts to its public website until a copy is deposited into the digital library for permanent public access.

Repealed and Re-enacted by Chapter 81, 2006 General Session

9-7-209. Depository libraries.

(1) Upon application, a library in this state may be designated as a depository library by the division.

(2) To be designated as a depository library, a library shall contract with the division to:

(a) provide adequate facilities for the storage and use of state publications;

(b) render reasonable service without charge to patrons; and

(c) provide reasonable access to state publications.

(3) A depository library shall receive at least one copy of all state publications issued by state agencies in a physical format.

(4) Each depository library shall have electronic network access to the bibliographic records and the state publications deposited with the division for the purposes of local preservation and providing local access.

Amended by Chapter 81, 2006 General Session

9-7-210. Micrographics and other copying and transmission techniques.

The division may use micrographics, computer files, electronic networks, or other copying or transmission techniques to meet the needs of the depository system.

Amended by Chapter 32, 1995 General Session

9-7-211. Local libraries -- Annual reports.

All municipal, city, county, and public school libraries shall submit an annual report to the director of the division on the condition and affairs of each library as required by the State Library Board.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-212. Contracts with nonpublic libraries.

The director of the division, subject to the direction and approval of the State Library Board, may contract with nonpublic libraries to receive their library services and to otherwise coordinate the state library program with those libraries.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-213. Rulemaking.

The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to implement and administer the provisions of this chapter including:

- (1) standards which shall be met by libraries to obtain and retain a designation as a depository library;
- (2) the method by which grants are made to individual libraries, but not including appropriations made directly to any other agency or institution;
- (3) standards for the certification of public librarians; and
- (4) standards for the public library online access policy required in Section **9-7-215**.

Amended by Chapter 378, 2010 General Session

9-7-214. Intentionally defacing, injuring, destroying, or refusing to return property -- Misdemeanor.

Whoever intentionally defaces, injures, or refuses to return on demand, or destroys any property belonging to the state library or loaned through its coordinating agencies or facilities, shall be guilty of a misdemeanor.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-215. Internet and online access policy required.

- (1) As used in this section:
 - (a) "Child pornography" is as defined in Section **76-5b-103**.
 - (b) "Harmful to minors" is as defined in Section **76-10-1201**.
 - (c) "Obscene" is as defined in 20 U.S.C. Sec. 9101.
 - (d) "Technology protection measure" means a technology that blocks or filters Internet access to visual depictions.
- (2) State funds may not be provided to any public library that offers use of the Internet or an online service to the public unless the library:
 - (a) (i) has in place a policy of Internet safety for minors including the operation of a technology protection measure:
 - (A) with respect to any publicly accessible computer with Internet access; and
 - (B) that protects against access to visual depictions that are:
 - (I) child pornography;
 - (II) harmful to minors; or
 - (III) obscene; and
 - (ii) is enforcing the operation of the technology protection measure described in Subsection (2)(a)(i) during any use of a computer by a minor; and
 - (b) (i) has in place a policy of Internet safety including the operation of a technology protection measure:
 - (A) with respect to any publicly accessible computer with Internet access; and
 - (B) that protects against access to visual depictions that are:
 - (I) child pornography; or
 - (II) obscene; and
 - (ii) is enforcing the operation of the technology protection measure described in Subsection (2)(b)(i) during any use of a computer.
- (3) This section does not prohibit a public library from limiting Internet access or otherwise protecting against materials other than the materials specified in this section.
- (4) An administrator, supervisor, or other representative of a public library may disable a technology protection measure described in Subsection (2):
 - (a) at the request of a library patron who is not a minor; and
 - (b) to enable access for research or other lawful purposes.

Amended by Chapter 320, 2011 General Session

9-7-216. Process and content standards for policy.

- (1) (a) Each library's policy shall be developed under the direction of the library board, adopted in an open meeting, and have an effective date. The library board shall review the policy at least every three years, and a footnote shall be added to the policy indicating the effective date of the last review.
- (b) Notice of the availability of the policy shall be posted in a conspicuous place within the library for all

patrons to observe. The library board may issue any other public notice it considers appropriate to inform the community about the policy.

(2) The policy shall:

(a) state:

(i) that it restricts access to Internet or online sites that contain material described in Section **9-7-215**; and

(ii) how the library board intends to meet the requirements of Section **9-7-215**;

(b) inform patrons that administrative procedures and guidelines for the staff to follow in enforcing the policy have been adopted and are available for review at the library; and

(c) inform patrons that procedures for use by patrons and staff to handle complaints about the policy, its enforcement, or about observed patron behavior have been adopted and are available for review at the library.

Amended by Chapter 193, 2004 General Session

9-7-217. Reporting.

The division shall submit an annual written report to the Economic Development and Workforce Services Interim Committee before November 1 regarding the compliance of library boards with Section 9-7-215.

Amended by Chapter 246, 2012 General Session

(State Law Library)

9-7-301. Board of control.

(1) There is created the board of control of the State Law Library consisting of the attorney general, legislative general counsel, and the chief justice of the Supreme Court.

(2) The members of the board may not receive salary, per diem, or expenses for their service.

Amended by Chapter 10, 1997 General Session

9-7-302. Public access -- Rules.

(1) The public shall have access to the State Law Library.

(2) The board of control may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with the provisions of this part.

Amended by Chapter 382, 2008 General Session

9-7-303. Withdrawing books.

(1) Books may be taken from the State Law Library by:

(a) the members, officers, and staff of the Legislature;

(b) the officers and staff of the executive departments and of the several boards and commissions of the state government; and

(c) the justices of the Supreme Court, the judges of other state courts, and their staffs.

(2) No other person may withdraw any book from the State Law Library.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-304. Book register -- Time limit.

(1) The state law librarian shall keep a register of all books issued and returned, showing to whom issued, by whom returned, and the time issued and returned.

(2) No book taken from the law library may be detained more than ten days, except by permission of the state law librarian.

Amended by Chapter 176, 1998 General Session

9-7-305. Injury to and failure to return books -- Action.

(1) If any person injures any book owned by the state law library or fails to return any book taken from the State Law Library, that person shall pay the state law librarian all loss or damage sustained because of the injury or failure to return, including costs and reasonable attorneys' fees.

(2) The state law librarian, in behalf of the state, shall bring action in the name of the state for the

collection of all damages sustained and all losses and penalties imposed under this section.
Amended by Chapter 176, 1998 General Session

9-7-307. Catalogue -- Rules.

The state law librarian shall catalogue all books, pamphlets, maps, charts, globes, papers, apparatus, and valuable specimens in the State Law Library and shall post in some conspicuous place a copy of the rules of the State Law Library. The catalogue shall be made available, whether electronically or in writing, to the persons entitled to withdraw books from the State Law Library under Section **9-7-303**.

Amended by Chapter 176, 1998 General Session

9-7-308. Books to be stamped and labeled.

The state law librarian shall cause every book in the State Law Library to be labeled with a printed or stamped label containing the words "Utah State Law Library," and shall cause the same words to be written or stamped on one or more pages of each volume.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-309. Sale and exchange of books.

The state law librarian may sell or exchange any surplus or duplicate sets of books in the State Law Library and use the proceeds from the sale to purchase other books for the State Law Library.

Amended by Chapter 176, 1998 General Session

9-7-311. Wrongful withdrawal of books -- Penalty.

If any person not authorized by Section **9-7-303** takes a book from the State Law Library, either with or without the consent of the state law librarian, or violates any of the provisions of this part, that person shall be fined the full cost of replacing the book, plus \$50 for each book so taken.

Amended by Chapter 176, 1998 General Session

9-7-312. Disposition of fines and penalties.

All fines and penalties collected pursuant to the provisions of this part shall be paid into the state treasury for the benefit of the State Law Library.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-313. Law library self-help center.

(1) The Utah State Law Library shall establish a statewide self-help center to assist self-represented parties to achieve fair and efficient resolution of their cases.

(2) The self-help center shall be staffed or directed by persons admitted to the practice of law in this state. Self-help center personnel may not represent parties or give legal advice.

(3) The self-help center shall provide to the public and all parties:

(a) information about:

(i) the availability of mediation services, and legal advice and representation through pro bono legal services;

(ii) low cost legal services;

(iii) legal aid programs; and

(iv) lawyer referral services;

(b) information about resources provided by law libraries;

(c) court forms and instructions, and help completing forms;

(d) answers to questions about the law, court process, and options; and

(e) educational materials and other services consistent with the purpose of this statute and the direction of the Judicial Council, including programs in other agencies and organizations.

Enacted by Chapter 368, 2012 General Session

(City Libraries)

9-7-401. Tax for establishment and maintenance of public library -- City library fund.

(1) A city governing body may establish and maintain a public library.

(2) For this purpose, cities may levy annually a tax not to exceed .001 of taxable value of taxable property in the city. The tax is in addition to all taxes levied by cities and is not limited by the levy limitation imposed on cities by law. However, if bonds are issued for purchasing a site, or constructing or furnishing a building, then taxes sufficient for the payment of the bonds and any interest may be levied.

(3) The taxes described in Subsection (2) shall:

- (a) be levied and collected in the same manner as other general taxes of the city; and
- (b) constitute a fund to be known as the city library fund.

(4) The city library fund shall receive a portion of:

(a) the uniform fee imposed by Section **59-2-404** in accordance with the procedures established in Section **59-2-404**;

(b) the statewide uniform fee imposed by Section **59-2-405** in accordance with the procedures established in Section **59-2-405**;

(c) the statewide uniform fee imposed by Section **59-2-405.1** in accordance with the procedures established in Section **59-2-405.1**;

(d) the uniform statewide fee imposed by Section **59-2-405.2** in accordance with the procedures established in Section **59-2-405.2**; and

(e) the uniform statewide fee imposed by Section **59-2-405.3** in accordance with the procedures established in Section **59-2-405.3**.

Amended by Chapter 244, 2005 General Session

Amended by Chapter 217, 2005 General Session

9-7-402. Library board of directors -- Expenses.

(1) When the city governing body decides to establish and maintain a city public library under the provisions of this part, it shall appoint a library board of directors of not less than five members and not more than nine members, chosen from the citizens of the city and based upon their fitness for the office.

(2) Only one member of the city governing body may be, at any one time, a member of the board.

(3) Each director shall serve without compensation, but their actual and necessary expenses incurred in the performance of their official duties may be paid from library funds.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-403. Library board terms -- Officers -- Removal -- Vacancies.

(1) Each director shall be appointed for a three-year term, or until the successor to that director is appointed. Initially, appointments shall be made for one-, two-, and three-year terms. Annually thereafter, the city governing body shall, before the first day of July of each year, appoint for a three-year term directors to take the place of the retiring directors.

(2) Directors shall serve not more than two consecutive full terms.

(3) The directors shall annually select a chairman and other officers.

(4) The city governing body may remove any director for misconduct or neglect of duty.

(5) Vacancies in the board of directors shall be filled for the unexpired term in the same manner as original appointments.

Amended by Chapter 10, 1997 General Session

9-7-404. Board powers and duties -- Library fund deposits and disbursements.

(1) The library board of directors may, with the approval of the city governing body:

(a) have control of the expenditure of the library fund, of construction, lease, or sale of library buildings and land, and of the operation and care of the library; and

(b) purchase, lease, or sell land, and purchase, lease, erect, or sell buildings for the benefit of the library.

(2) The board shall:

(a) maintain and care for the library;

(b) establish policies for its operation; and

(c) in general, carry out the spirit and intent of the provisions of this part.

(3) All tax moneys received for the library shall be deposited in the city treasury to the credit of the library fund, and may not be used for any purpose except that of the city library. These funds shall be drawn upon by the authorized officers of the city upon presentation of the properly authenticated vouchers of the library board. All moneys collected by the library shall be deposited to the credit of the

library fund.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-405. Rules -- Use of library.

(1) The library board of directors shall make, amend, and repeal rules, not inconsistent with law, for the governing of the library.

(2) Each library established under this part shall be free to the use of the inhabitants of the city where located, subject to the rules adopted by the board. The board may exclude from the use of the library any person who willfully violates these rules. The board may extend the privileges and use of the library to persons residing outside of the city upon terms and conditions it may prescribe by rule.

Amended by Chapter 48, 2005 General Session

9-7-406. Reports to governing body and State Library Board.

The library board of directors shall:

(1) make an annual report to the city governing body on the condition and operation of the library, including a financial statement; and

(2) provide for the keeping of records required by the State Library Board in its request for an annual report from the public libraries, and submit that annual report to the State Library Board.

Renumbered and Amended by Chapter 241, 1992

9-7-407. Librarian and other personnel.

(1) The library board of directors shall appoint a competent person as librarian to have immediate charge of the library with those duties and compensation for services that it determines. The librarian shall act as the executive officer for the library board.

(2) The board shall appoint, upon the recommendation of the librarian, other personnel as needed.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-408. Donations of money or property.

Any person desiring to make donations of money, personal property, or real estate for the benefit of any library shall have the right to vest the title to the money, personal property, or real estate in the board of directors. The donation shall be held and controlled by the board, when accepted, according to the terms of the deed, gift, devise, or bequest of the property, and the board shall be held and considered to be trustees of the property.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-409. Entities may cooperate, merge, or consolidate in providing library services.

Boards of directors of city libraries, boards of directors of county libraries, boards of education, governing boards of other educational institutions, library agencies, and local political subdivisions may cooperate, merge, or consolidate in providing library services.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-410. Consolidation with county library.

(1) If a city library consolidates with a county library, the city library board of directors shall convey all assets and, except as provided in Subsection (2), trust funds to the county library board of directors, and the city library shall cease operation.

(2) If a conveyance of trust funds under Subsection (1) would constitute a violation of the trust agreement governing the trust funds, conveyance of those funds is not required, and those funds may continue to be used in accordance with the trust agreement for any library facility specified in the trust agreement, even after the facility becomes a county library facility because of consolidation.

Amended by Chapter 46, 2005 General Session

(County Libraries)

9-7-501. Tax for establishment and maintenance of public library -- Library fund.

(1) A county legislative body may establish and maintain a public library.

(2) For this purpose, counties may levy annually a tax not to exceed .001 of taxable value of taxable property in the county, outside of cities which maintain their own city libraries as authorized by Part 4. The tax is in addition to all taxes levied by counties and is not limited by the levy limitation imposed on counties by law. However, if bonds are issued for purchasing a site, or constructing or furnishing a building, then taxes sufficient for the payment of the bonds and any interest may be levied.

(3) The taxes shall be levied and collected in the same manner as other general taxes of the county and shall constitute a fund to be known as the county library fund.

Amended by Chapter 227, 1993 General Session

9-7-502. Library board of directors -- Expenses.

(1) (a) When the county legislative body decides to establish and maintain a county public library under the provisions of this part, the county executive shall, with the advice and consent of the county legislative body, appoint a library board of not less than five and not more than nine directors chosen from the citizens of the county and based upon their fitness for the office.

(b) When increasing membership on an existing library board, the county legislative body:

(i) may not add more than two positions in any year; and

(ii) when adding members, shall ensure that the terms of library board members are staggered so that approximately 1/4 of the board is selected each year.

(2) Only one member of the county legislative body may be, at any one time, a member of the board.

(3) Each director shall serve without compensation, but the actual and necessary expenses incurred in the performance of the director's official duties may be paid from library funds.

Amended by Chapter 45, 1994 General Session

9-7-503. Library board terms -- Officers -- Removal -- Vacancies.

(1) Each director shall be appointed for a four-year term, or until the director's successor is appointed. Initially, appointments shall be made for one-, two-, three-, and four-year terms, and one member of the county legislative body for the term of his elected office. Annually thereafter, the county executive body shall, before the first day of July of each year, appoint, with the advice and consent of the county legislative body, for a four-year term, one director to take the place of the retiring director.

(2) Directors shall serve not more than two consecutive full terms.

(3) The directors shall annually select a chairman and other officers.

(4) The county executive body may remove any director for misconduct or neglect of duty.

(5) Vacancies in the board of directors shall be filled for the unexpired terms in the same manner as original appointments.

Amended by Chapter 78, 1993 General Session

Amended by Chapter 227, 1993 General Session

Amended by Chapter 4, 1993 General Session

9-7-504. Library board duties -- Library fund deposits.

(1) The library board of directors shall, with the approval of the county executive and in accordance with county ordinances, policies, and procedures:

(a) be responsible for:

(i) the expenditure of the library fund;

(ii) the construction, lease, or sale of library buildings and land; and

(iii) the operation and care of the library; and

(b) purchase, lease, or sell land, and purchase, lease, construct, or sell buildings, for the benefit of the library.

(2) The board has those powers and duties as prescribed by county ordinance, including establishing policies for collections and information resources that are consistent with state and federal law.

(3) (a) All tax money received for the library shall be deposited in the county treasury to the credit of the library fund, and may not be used for any purpose except that of the county library.

(b) All money collected by the library shall be deposited to the credit of the library fund.

Amended by Chapter 378, 2010 General Session

9-7-505. Rules -- Use of library.

(1) The board shall make library rules in a manner consistent with county ordinances, policies, and

procedures for the governing of the library.

(2) Each library established under this part shall be free to the use of the inhabitants of the area taxed for the support of the library, subject to the rules made as prescribed by county ordinance.

Amended by Chapter 47, 2003 General Session

9-7-506. Annual reports.

The library board of directors shall:

(1) make an annual report to the county executive and county legislative body on the condition and operation of the library, including a financial statement; and

(2) provide for the keeping of records required by the State Library Board in its request for an annual report from the public libraries, and submit that annual report to the State Library Board.

Amended by Chapter 227, 1993 General Session

9-7-507. Librarian and other personnel.

(1) (a) The library board of directors shall recommend to the county executive for appointment a competent person to serve as librarian.

(b) The county executive shall, within 30 days of the recommendation, either make the appointment or request that the board submit another recommendation.

(c) The librarian shall be an employee of the county subject to the personnel policies, procedures, and compensation plans approved by the county executive and county legislative body.

(d) The librarian shall act as the executive officer for the library board.

(2) (a) All library personnel are employees of the county.

(b) The librarian or the librarian's designee shall hire library personnel in accordance with the county merit system, personnel policies and procedures, and compensation plans approved by the county executive and county legislative body.

(3) As used in this section "librarian" means the county library director.

Amended by Chapter 47, 2003 General Session

9-7-508. Donations of money or property.

(1) A person desiring to make a donation of money, personal property, or real estate for the benefit of a library has the right to vest the title to the money, personal property, or real estate in the county, designated for the benefit and purposes of the library.

(2) The county shall hold donated personal property and real estate as prescribed by county ordinance according to the terms of the deed, gift, devise, or bequest of the property, and the county shall be the trustee of the property.

Amended by Chapter 47, 2003 General Session

9-7-509. Entities may cooperate, merge, or consolidate in providing library services.

Boards of directors of city libraries, boards of directors of county libraries, boards of education, governing boards of other educational institutions, library agencies, and local political subdivisions may cooperate in providing library services or merge or consolidate under an interlocal agreement approved and implemented in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

Amended by Chapter 47, 2003 General Session

9-7-510. Estimate of moneys.

(1) The library board of directors shall furnish to the county executive and county legislative body, in writing, and prior to the time required by law to levy county taxes, an estimate of the amount of moneys necessary to establish, equip, and maintain the library, and to provide library services during the next ensuing fiscal year and shall certify the amount.

(2) The county legislative body may, at the time and in the manner of levying other taxes, impose the levy, but the levy may not exceed in any one year .001 per dollar of taxable value of taxable property in the county.

Amended by Chapter 305, 1995 General Session

9-7-511. Library bonds -- Issuance of previously voted bonds.

(1) When an election has been held in any county to authorize bonds of the county for the purpose of

acquiring, improving, and extending a public library for the county, including the acquisition of equipment, furnishings, and books, and it was specified in the proposition that the bonds are to be payable from ad valorem taxes to be levied on all taxable property in the county, and when the election has carried, but none of the bonds authorized have been issued, the bonds authorized to be issued at election may be issued and shall be payable from taxes to be levied without limitation as to rate or amount on all taxable property in the county, despite any provision of law to the contrary in effect at the time of the election.

(2) All county library bonds that have been authorized but not yet issued, all county library bond elections previously held and carried, and all proceedings in connection with them that were adopted for the authorization of the bonds are hereby validated, ratified, approved, and confirmed, and the bonds, when issued in accordance with the election and proceedings, shall be binding, legal, valid, and enforceable obligations of the county issuing them in accordance with their terms.

Renumbered and Amended by Chapter 241, 1992 General Session

(Public Library Employee Benefits)

10-3-1104. Library personnel -- Monthly wage deductions and matching sums -- Time of inclusion.

(1) The librarians, assistants and employees of any public library may, at the discretion of the board of directors of the library, be included within and participate in the pension, retirement, sickness, disability and death benefit system established under Section **10-3-1103**. In the event the librarian, assistants and employees of the municipality are included within and participate in the system, there shall be deducted from the monthly wage or salary of the librarian, assistants and employees and paid into the system, a percentage of their wage or salary equal to the percentage of the monthly wage or salary of other employees of the municipality which is paid into the system. Also there shall be paid monthly into the system from the funds of the library a further sum equal to the total amount deducted monthly from the wage or salary of the librarian, assistants and employees and paid into the retirement system.

(2) Where the election by the board of directors of any library for inclusion of its librarian, assistants and employees within the system of any municipality is subsequent to the establishment of the system, the inclusion may begin as of the date of the establishment of the system or as of the date of the election as shall be determined by the board of directors. If inclusion is as of the date of the establishment of the system, there shall be paid into the system in addition to the subsequent monthly wage deductions and matching sums, a sum equal to the aggregate of monthly payroll deductions and matching sums that would have accrued during the period beginning with the establishment of the system and ending with the election had the librarian, assistants and employees been included within the system from its establishment.

Enacted by Chapter 48, 1977 General Session

(Cities can establish libraries and bond for them)

10-8-72. Libraries and reading rooms -- Establishment and maintenance.

They may establish, maintain and regulate free public libraries and reading rooms, as provided by law, and may perpetuate such free libraries and reading rooms as may have been heretofore established in the city.

No Change Since 1953

11-14-103. Bond issues authorized -- Purposes -- Use of bond proceeds.

(1) Any local political subdivision may, in the manner and subject to the limitations and restrictions contained in this chapter, issue its negotiable bonds for the purpose of paying all or part of the cost of:

(a) acquiring, improving, or extending any one or more improvements, facilities, or property that the local political subdivision is authorized by law to acquire, improve, or extend;

(b) acquiring, or acquiring an interest in, any one or more or any combination of the following types of improvements, facilities, or property to be owned by the local political subdivision, either alone or jointly with one or more other local political subdivisions, or for the improvement or extension of any of those wholly or jointly owned improvements, facilities, or properties:

- (i) public buildings of every nature, including without limitation, offices, courthouses, jails, fire, police and sheriff's stations, detention homes, and any other buildings to accommodate or house lawful activities of a local political subdivision;
 - (ii) waterworks, irrigation systems, water systems, dams, reservoirs, water treatment plants, and any other improvements, facilities, or property used in connection with the acquisition, storage, transportation, and supplying of water for domestic, industrial, irrigation, recreational, and other purposes and preventing pollution of water;
 - (iii) sewer systems, sewage treatment plants, incinerators, and other improvements, facilities, or property used in connection with the collection, treatment, and disposal of sewage, garbage, or other refuse;
 - (iv) drainage and flood control systems, storm sewers, and any other improvements, facilities, or property used in connection with the collection, transportation, or disposal of water;
 - (v) recreational facilities of every kind, including without limitation, athletic and play facilities, playgrounds, athletic fields, gymnasiums, public baths, swimming pools, camps, parks, picnic grounds, fairgrounds, golf courses, zoos, boating facilities, tennis courts, auditoriums, stadiums, arenas, and theaters;
 - (vi) convention centers, sports arenas, auditoriums, theaters, and other facilities for the holding of public assemblies, conventions, and other meetings;
 - (vii) roads, bridges, viaducts, tunnels, sidewalks, curbs, gutters, and parking buildings, lots, and facilities;
 - (viii) airports, landing fields, landing strips, and air navigation facilities;
 - (ix) educational facilities, including without limitation, schools, gymnasiums, auditoriums, theaters, museums, art galleries, libraries, stadiums, arenas, and fairgrounds;
 - (x) hospitals, convalescent homes, and homes for the aged or indigent; and
 - (xi) electric light works, electric generating systems, and any other improvements, facilities, or property used in connection with the generation and acquisition of electricity for these local political subdivisions and transmission facilities and substations if they do not duplicate transmission facilities and substations of other entities operating in the state prepared to provide the proposed service unless these transmission facilities and substations proposed to be constructed will be more economical to these local political subdivisions; or
- (c) new construction, renovation, or improvement to a state highway within the boundaries of the local political subdivision or an environmental study for a state highway within the boundaries of the local political subdivision.
- (2) Except as provided in Subsection (1)(c), any improvement, facility, or property under Subsection (1) need not lie within the limits of the local political subdivision.
- (3) A cost under Subsection (1) may include:
- (a) the cost of equipment and furnishings for such improvements, facilities, or property;
 - (b) all costs incident to the authorization and issuance of bonds, including engineering, legal, and fiscal advisers' fees;
 - (c) costs incident to the issuance of bond anticipation notes, including interest to accrue on bond anticipation notes;
 - (d) interest estimated to accrue on the bonds during the period to be covered by the construction of the improvement, facility, or property and for 12 months after that period; and
 - (e) other amounts which the governing body finds necessary to establish bond reserve funds and to provide working capital related to the improvement, facility, or property.
- (4) The proceeds from bonds issued on or after May 14, 2013 may not be used:
- (a) for operation and maintenance expenses more for than one year after the date any of the proceeds are first used for those expenses; or
 - (b) for capitalization of interest more than five years after the bonds are issued.

Amended by Chapter 159, 2013 General Session

(Impact Fee Notices Deposited in Local Public Library)

11-36a-502. Notice to adopt or amend an impact fee facilities plan.

- (1) If a local political subdivision chooses to prepare an independent impact fee facilities plan rather

than include an impact fee facilities element in the general plan in accordance with Section **11-36a-301**, the local political subdivision shall, before adopting or amending the impact fee facilities plan:

(a) give public notice, in accordance with Subsection (2), of the plan or amendment at least 10 days before the day on which the public hearing described in Subsection (1)(d) is scheduled;

(b) make a copy of the plan or amendment, together with a summary designed to be understood by a lay person, available to the public;

(c) place a copy of the plan or amendment and summary in each public library within the local political subdivision; and

(d) hold a public hearing to hear public comment on the plan or amendment.

(2) With respect to the public notice required under Subsection (1)(a):

(a) each municipality shall comply with the notice and hearing requirements of, and, except as provided in Subsection **11-36a-701(3)(b)(ii)**, receive the protections of Sections **10-9a-205** and **10-9a-801** and Subsection **10-9a-502(2)**;

(b) each county shall comply with the notice and hearing requirements of, and, except as provided in Subsection **11-36a-701(3)(b)(ii)**, receive the protections of Sections **17-27a-205** and **17-27a-801** and Subsection **17-27a-502(2)**; and

(c) each local district, special service district, and private entity shall comply with the notice and hearing requirements of, and receive the protections of, Section **17B-1-111**.

(3) Nothing contained in this section or Section **11-36a-503** may be construed to require involvement by a planning commission in the impact fee facilities planning process.

Enacted by Chapter 47, 2011 General Session

11-36a-504. Notice of intent to adopt impact fee enactment -- Hearing -- Protections.

(1) Before adopting an impact fee enactment:

(a) a municipality legislative body shall:

(i) comply with the notice requirements of Section **10-9a-205** as if the impact fee enactment were a land use ordinance;

(ii) hold a hearing in accordance with Section **10-9a-502** as if the impact fee enactment were a land use ordinance; and

(iii) except as provided in Subsection **11-36a-701(3)(b)(ii)**, receive the protections of Section **10-9a-801** as if the impact fee were a land use ordinance;

(b) a county legislative body shall:

(i) comply with the notice requirements of Section **17-27a-205** as if the impact fee enactment were a land use ordinance;

(ii) hold a hearing in accordance with Section **17-27a-502** as if the impact fee enactment were a land use ordinance; and

(iii) except as provided in Subsection **11-36a-701(3)(b)(ii)**, receive the protections of Section **17-27a-801** as if the impact fee were a land use ordinance;

(c) a local district or special service district shall:

(i) comply with the notice and hearing requirements of Section **17B-1-111**; and

(ii) receive the protections of Section **17B-1-111**;

(d) a local political subdivision shall at least 10 days before the day on which a public hearing is scheduled in accordance with this section:

(i) make a copy of the impact fee enactment available to the public; and

(ii) post notice of the local political subdivision's intent to enact or modify the impact fee, specifying the type of impact fee being enacted or modified, on the Utah Public Notice Website created under Section **63F-1-701**; and

(e) a local political subdivision shall submit a copy of the impact fee analysis and a copy of the summary of the impact fee analysis prepared in accordance with Section **11-36a-303** on its website or to each public library within the local political subdivision.

(2) Subsection (1)(a) or (b) may not be construed to require involvement by a planning commission in the impact fee enactment process.

Enacted by Chapter 47, 2011 General Session

(Counties can establish libraries, bond for them, and improve them)

17-12-1. Authority and applicable procedure for issuance of bonds -- Application of proceeds -- Debt limit.

Except as otherwise provided under Section **17-50-303**, the county legislative body may contract a bonded indebtedness in the manner and subject to the conditions provided under Title 11, Chapter 14, Local Government Bonding Act. The revenue derived from the sale of bonds shall be applied only to the purpose or purposes specified in the order of the county legislative body. If there is any surplus, it shall be applied to the payment of the bonds. In no event may any county become so indebted to an amount, including existing indebtedness, exceeding 2% of the fair market value, as defined under Section **59-2-102**, of the taxable property in the county as computed from the last equalized assessment roll for county purposes prior to the incurring of the indebtedness.

Amended by Chapter 105, 2005 General Session

17-12-3. Additional purposes for which bonds may be issued -- Joint ownership of facilities authorized.

In addition to other purposes for which bonds may be issued, bonds may be issued for the purpose of acquiring, improving or extending systems for the collection, retention and disposition of storm and flood waters, for the acquisition, improvement or extension of public libraries, including equipment, furnishings and books therefor, acquiring or improving facilities for the collection, disposal or incineration of garbage and trash, acquiring, improving, extending, furnishing and equipping auditoriums, sports arenas, stadiums, convention centers and all properties and facilities ordinarily forming part of a so-called convention complex, or any part thereof and for acquiring, improving, extending, furnishing or equipping any improvement or facility which the county is authorized by law to own. Bonds may be issued for the county's share of any such facility to be owned jointly with any municipality or taxing district in the county and such joint ownership is expressly authorized.

Enacted by Chapter 27, 1963 General Session

(Local Districts)

17B-1-202. Local district may be created -- Services that may be provided -- Limitations.

(1) (a) A local district may be created as provided in this part to provide within its boundaries service consisting of:

(i) the operation of an airport;
(ii) the operation of a cemetery;
(iii) fire protection, paramedic, and emergency services, including consolidated 911 and emergency dispatch services;

- (iv) garbage collection and disposal;
(v) health care, including health department or hospital service;
(vi) the operation of a library;
(vii) abatement or control of mosquitos and other insects;
(viii) the operation of parks or recreation facilities or services;
(ix) the operation of a sewage system;
(x) the construction and maintenance of a right-of-way, including:
(A) a curb;
(B) a gutter;
(C) a sidewalk;
(D) a street;
(E) a road;
(F) a water line;
(G) a sewage line;
(H) a storm drain;
(I) an electricity line;

(J) a communications line;
 (K) a natural gas line; or
 (L) street lighting;
 (xi) transportation, including public transit and providing streets and roads;
 (xii) the operation of a system, or one or more components of a system, for the collection, storage, retention, control, conservation, treatment, supplying, distribution, or reclamation of water, including storm, flood, sewage, irrigation, and culinary water, whether the system is operated on a wholesale or retail level or both;
 (xiii) in accordance with Subsection (1)(c), the acquisition or assessment of a groundwater right for the development and execution of a groundwater management plan in cooperation with and approved by the state engineer in accordance with Section [73-5-15](#);
 (xiv) law enforcement service;
 (xv) subject to Subsection (1)(b), the underground installation of an electric utility line or the conversion to underground of an existing electric utility line;
 (xvi) the control or abatement of earth movement or a landslide;
 (xvii) the operation of animal control services and facilities; or
 (xviii) an energy efficiency upgrade or a renewable energy system, as defined in Section [11-42-102](#), in accordance with Title 11, Chapter 42, Assessment Area Act.

(b) Each local district that provides the service of the underground installation of an electric utility line or the conversion to underground of an existing electric utility line shall, in installing or converting the line, provide advance notice to and coordinate with the utility that owns the line.

(c) A groundwater management plan described in Subsection (1)(a)(xiii) may include the banking of groundwater rights by a local district in a critical management area as defined in Section [73-5-15](#) following the adoption of a groundwater management plan by the state engineer under Section [73-5-15](#).

(i) A local district may manage the groundwater rights it acquires under Subsection [17B-1-103](#)(2)(a) or (b) consistent with the provisions of a groundwater management plan described in this Subsection (1)(c).

(ii) A groundwater right held by a local district to satisfy the provisions of a groundwater management plan is not subject to the forfeiture provisions of Section [73-1-4](#).

(iii) (A) A local district may divest itself of a groundwater right subject to a determination that the groundwater right is not required to facilitate the groundwater management plan described in this Subsection (1)(c).
 (B) The groundwater right described in Subsection (1)(c)(iii)(A) is subject to Section [73-1-4](#) beginning on the date of divestiture.

(iv) Upon a determination by the state engineer that an area is no longer a critical management area as defined in Section [73-5-15](#), a groundwater right held by the local district is subject to Section [73-1-4](#).

(v) A local district created in accordance with Subsection (1)(a)(xiii) to develop and execute a groundwater management plan may hold or acquire a right to surface waters that are naturally tributary to the groundwater basin subject to the groundwater management plan if the surface waters are appropriated in accordance with Title 73, Water and Irrigation, and used in accordance with Title 73, Chapter 3b, Groundwater Recharge and Recovery Act.

(2) For purposes of this section:
 (a) "Operation" means all activities involved in providing the indicated service including acquisition and ownership of property reasonably necessary to provide the indicated service and acquisition, construction, and maintenance of facilities and equipment reasonably necessary to provide the indicated service.
 (b) "System" means the aggregate of interrelated components that combine together to provide the indicated service including, for a sewage system, collection and treatment.

(3) (a) A local district may not be created to provide and may not after its creation provide more than four of the services listed in Subsection (1).
 (b) Subsection (3)(a) may not be construed to prohibit a local district from providing more than four services if, before April 30, 2007, the local district was authorized to provide those services.

(4) (a) Except as provided in Subsection (4)(b), a local district may not be created to provide and may not after its creation provide to an area the same service already being provided to that area by another political subdivision, unless the other political subdivision gives its written consent.

(b) For purposes of Subsection (4)(a), a local district does not provide the same service as another political subdivision if it operates a component of a system that is different from a component operated by another political subdivision but within the same:

(i) sewage system; or

(ii) water system.

(5) (a) Except for a local district in the creation of which an election is not required under Subsection [17B-1-214](#)(3)(d), the area of a local district may include all or part of the unincorporated area of one or more counties and all or part of one or more municipalities.

(b) The area of a local district need not be contiguous.

(6) For a local district created before May 5, 2008, the authority to provide fire protection service also includes the authority to provide:

(a) paramedic service; and

(b) emergency service, including hazardous materials response service.

(7) A local district created before May 11, 2010, authorized to provide the construction and maintenance of curb, gutter, or sidewalk may provide a service described in Subsection (1)(a)(x) on or after May 11, 2010.

(8) A local district created before May 10, 2011, authorized to provide culinary, irrigation, sewage, or storm water services may provide a service described in Subsection (1)(a)(xii) on or after May 10, 2011.

(9) A local district may not be created under this chapter for two years after the date on which a local district is dissolved as provided in Section [17B-1-217](#) if the local district proposed for creation:

(a) provides the same or a substantially similar service as the dissolved local district; and

(b) is located in substantially the same area as the dissolved local district.

Amended by Chapter 246, 2013 General Session

Amended by Chapter 448, 2013 General Session

(Disabled Accessibility)

26-29-1. Buildings and facilities to which chapter applies -- Standards available to interested parties -- Building board staff to advise, review, and approve plans when possible.

(1) (a) The standards in this chapter apply to all buildings and facilities used by the public that are constructed or remodeled in whole or in part by the use of state funds, or the funds of any political subdivision of the state.

(b) All of those buildings and facilities constructed in Utah after May 12, 1981, shall conform to the standard prescribed in this chapter except buildings, facilities, or portions of them, not intended for public use, including:

(i) caretaker dwellings;

(ii) service buildings; and

(iii) heating plants.

(2) This chapter applies to temporary or emergency construction as well as permanent buildings.

(3) (a) The standards established in this chapter apply to the remodeling or alteration of any existing building or facility within the jurisdictions set forth in this chapter where the remodeling or alteration will affect an area of the building or facility in which there are architectural barriers for persons with a physical disability.

(b) If the remodeling involves less than 50% of the space of the building or facility, only the areas being remodeled need comply with the standards.

(c) If remodeling involves 50% or more of the space of the building or facility, the entire building or facility shall be brought into compliance with the standards.

(4) (a) All individuals and organizations are encouraged to apply the standards prescribed in this

chapter to all buildings used by the public, but that are financed from other than public funds.

(b) The State Building Board shall:

(i) make the standards established by this chapter available to interested individuals and organizations; and

(ii) upon request and to the extent possible, make available the services of the building board staff to advise, review, and approve plans and specifications in order to comply with the standards of this chapter.

Amended by Chapter 73, 2001 General Session

(Alcohol & Libraries)

32B-1-102. Definitions.

As used in this title:

(1) "Airport lounge" means a business location:

(a) at which an alcoholic product is sold at retail for consumption on the premises; and

(b) that is located at an international airport with a United States Customs office on the premises of the international airport.

(2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

(3) "Alcoholic beverage" means the following:

(a) beer; or

(b) liquor.

(4) (a) "Alcoholic product" means a product that:

(i) contains at least .5% of alcohol by volume; and

(ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.

(b) "Alcoholic product" includes an alcoholic beverage.

(c) "Alcoholic product" does not include any of the following common items that otherwise come within the definition of an alcoholic product:

(i) except as provided in Subsection (4)(d), an extract;

(ii) vinegar;

(iii) cider;

(iv) essence;

(v) tincture;

(vi) food preparation; or

(vii) an over-the-counter medicine.

(d) "Alcoholic product" includes an extract containing alcohol obtained by distillation when it is used as a flavoring in the manufacturing of an alcoholic product.

(5) "Alcohol training and education seminar" means a seminar that is:

(a) required by Chapter 5, Part 4, Alcohol Training and Education Act; and

(b) described in Section [62A-15-401](#).

(6) "Banquet" means an event:

(a) that is held at one or more designated locations approved by the commission in or on the premises of a:

(i) hotel;

(ii) resort facility;

(iii) sports center; or

(iv) convention center;

(b) for which there is a contract:

(i) between a person operating a facility listed in Subsection (6)(a) and another person; and

(ii) under which the person operating a facility listed in Subsection (6)(a) is required to provide an alcoholic product at the event; and

(c) at which food and alcoholic products may be sold, offered for sale, or furnished.

(7) (a) "Bar" means a surface or structure:

- (i) at which an alcoholic product is:
 - (A) stored; or
 - (B) dispensed; or
- (ii) from which an alcoholic product is served.
- (b) "Bar structure" means a surface or structure on a licensed premises if on or at any place of the surface or structure an alcoholic product is:
 - (i) stored; or
 - (ii) dispensed.
- (8) (a) Subject to Subsection (8)(d), "beer" means a product that:
 - (i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by volume or 3.2% by weight; and
 - (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- (b) "Beer" may or may not contain hops or other vegetable products.
- (c) "Beer" includes a product that:
 - (i) contains alcohol in the percentages described in Subsection (8)(a); and
 - (ii) is referred to as:
 - (A) beer;
 - (B) ale;
 - (C) porter;
 - (D) stout;
 - (E) lager; or
 - (F) a malt or malted beverage.
- (d) "Beer" does not include a flavored malt beverage.
- (9) "Beer-only restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-only Restaurant License.
- (10) "Beer retailer" means a business:
 - (a) that is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and
 - (b) to whom a license is issued:
 - (i) for an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-premise Beer Retailer Local Authority; or
 - (ii) for an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-premise Beer Retailer License.
- (11) "Beer wholesaling license" means a license:
 - (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and
 - (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.
- (12) "Billboard" means a public display used to advertise, including:
 - (a) a light device;
 - (b) a painting;
 - (c) a drawing;
 - (d) a poster;
 - (e) a sign;
 - (f) a signboard; or
 - (g) a scoreboard.
- (13) "Brewer" means a person engaged in manufacturing:
 - (a) beer;
 - (b) heavy beer; or
 - (c) a flavored malt beverage.
- (14) "Brewery manufacturing license" means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.
- (15) "Certificate of approval" means a certificate of approval obtained from the department under Section 32B-11-201.
- (16) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose:
 - (a) under a single contract;

(b) at a fixed charge in accordance with the bus company's tariff; and
(c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a driver to travel together to one or more specified destinations.

(17) "Church" means a building:

- (a) set apart for worship;
- (b) in which religious services are held;
- (c) with which clergy is associated; and
- (d) that is tax exempt under the laws of this state.

(18) (a) "Club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License.

(b) "Club license" includes:

- (i) a dining club license;
- (ii) an equity club license;
- (iii) a fraternal club license; or
- (iv) a social club license.

(19) "Commission" means the Alcoholic Beverage Control Commission created in Section 32B-2-

201.

(20) "Commissioner" means a member of the commission.

(21) "Community location" means:

- (a) a public or private school;
- (b) a church;
- (c) a public library;
- (d) a public playground; or
- (e) a public park.

(22) "Community location governing authority" means:

(a) the governing body of the community location; or

(b) if the commission does not know who is the governing body of a community location, a person who appears to the commission to have been given on behalf of the community location the authority to prohibit an activity at the community location.

(23) "Container" means a receptacle that contains an alcoholic product, including:

- (a) a bottle;
- (b) a vessel; or
- (c) a similar item.

(24) "Convention center" means a facility that is:

- (a) in total at least 30,000 square feet; and
- (b) otherwise defined as a "convention center" by the commission by rule.

(25) (a) Subject to Subsection (25)(b), "counter" means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.

(b) "Counter" does not include a surface or structure if on or at any point of the surface or structure an alcoholic product is:

- (i) stored; or
- (ii) dispensed.

(26) "Department" means the Department of Alcoholic Beverage Control created in Section 32B-2-

203.

(27) "Department compliance officer" means an individual who is:

- (a) an auditor or inspector; and
- (b) employed by the department.

(28) "Department sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling.

(29) "Dining club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a dining club license.

(30) "Director," unless the context requires otherwise, means the director of the department.

(31) "Disciplinary proceeding" means an adjudicative proceeding permitted under this title:

- (a) against a person subject to administrative action; and
- (b) that is brought on the basis of a violation of this title.

(32) (a) Subject to Subsection (32)(b), "dispense" means:

- (i) drawing of an alcoholic product:
 - (A) from an area where it is stored; or
 - (B) as provided in Subsection [32B-6-205\(12\)\(b\)\(ii\)](#), [32B-6-305\(12\)\(b\)\(ii\)](#), [32B-6-805\(15\)\(b\)\(ii\)](#), or [32B-6-905\(12\)\(b\)\(ii\)](#); and
- (ii) using the alcoholic product described in Subsection (32)(a)(i) on the premises of the licensed premises to mix or prepare an alcoholic product to be furnished to a patron of the retail licensee.
 - (b) The definition of "dispense" in this Subsection (32) applies only to:
 - (i) a full-service restaurant license;
 - (ii) a limited-service restaurant license;
 - (iii) a reception center license; and
 - (iv) a beer-only restaurant license.
- (33) "Distillery manufacturing license" means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.
- (34) "Distressed merchandise" means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.
- (35) "Educational facility" includes:
 - (a) a nursery school;
 - (b) an infant day care center; and
 - (c) a trade and technical school.
- (36) "Equity club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as an equity club license.
- (37) "Event permit" means:
 - (a) a single event permit; or
 - (b) a temporary beer event permit.
- (38) "Exempt license" means a license exempt under Section [32B-1-201](#) from being considered in determining the total number of a retail license that the commission may issue at any time.
- (39) (a) "Flavored malt beverage" means a beverage:
 - (i) that contains at least .5% alcohol by volume;
 - (ii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer as described in 27 C.F.R. Sec. 25.55;
 - (iii) to which is added a flavor or other ingredient containing alcohol, except for a hop extract; and
 - (iv) (A) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or
 - (B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.
- (b) "Flavored malt beverage" is considered liquor for purposes of this title.
- (40) "Fraternal club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a fraternal club license.
- (41) "Full-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-service Restaurant License.
- (42) (a) "Furnish" means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.
 - (b) "Furnish" includes to:
 - (i) serve;
 - (ii) deliver; or
 - (iii) otherwise make available.
- (43) "Guest" means an individual who meets the requirements of Subsection [32B-6-407\(9\)](#).
- (44) "Health care practitioner" means:
 - (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
 - (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;
 - (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
 - (d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;
 - (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;
 - (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy Practice Act;
 - (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;

- (h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;
 - (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;
 - (j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;
 - (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
 - (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and
 - (m) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.
- (45) (a) "Heavy beer" means a product that:
- (i) contains more than 4% alcohol by volume; and
 - (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- (b) "Heavy beer" is considered liquor for the purposes of this title.
- (46) "Hotel" is as defined by the commission by rule.
- (47) "Identification card" means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.
- (48) "Industry representative" means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.
- (49) "Industry representative sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.
- (50) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:
- (a) law; or
 - (b) court order.
- (51) "Intoxicated" means that a person:
- (a) is significantly impaired as to the person's mental or physical functions as a result of the use of:
 - (i) an alcoholic product;
 - (ii) a controlled substance;
 - (iii) a substance having the property of releasing toxic vapors; or
 - (iv) a combination of Subsections (51)(a)(i) through (iii); and
 - (b) exhibits plain and easily observed outward manifestations of behavior or physical signs produced by the over consumption of an alcoholic product.
- (52) "Investigator" means an individual who is:
- (a) a department compliance officer; or
 - (b) a nondepartment enforcement officer.
- (53) "Invitee" is as defined in Section [32B-8-102](#).
- (54) "License" means:
- (a) a retail license;
 - (b) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;
 - (c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act; or
 - (d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.
- (55) "Licensee" means a person who holds a license.
- (56) "Limited-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-service Restaurant License.
- (57) "Limousine" means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:
- (a) in which the driver and a passenger are separated by a partition, glass, or other barrier;
 - (b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity's tariff; and
 - (c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.
- (58) (a) (i) "Liquor" means a liquid that:
- (A) is:
 - (l) alcohol;

- (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;
- (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or
- (IV) other drink or drinkable liquid; and
- (B) (I) contains at least .5% alcohol by volume; and
- (II) is suitable to use for beverage purposes.
- (ii) "Liquor" includes:
 - (A) heavy beer;
 - (B) wine; and
 - (C) a flavored malt beverage.
- (b) "Liquor" does not include beer.
- (59) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.
- (60) "Liquor warehousing license" means a license that is issued:
 - (a) in accordance with Chapter 12, Liquor Warehousing License Act; and
 - (b) to a person, other than a licensed manufacturer, who engages in the importation for storage, sale, or distribution of liquor regardless of amount.
- (61) "Local authority" means:
 - (a) for premises that are located in an unincorporated area of a county, the governing body of a county; or
 - (b) for premises that are located in an incorporated city or a town, the governing body of the city or town.
- (62) "Lounge or bar area" is as defined by rule made by the commission.
- (63) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.
- (64) "Member" means an individual who, after paying regular dues, has full privileges in an equity club licensee or fraternal club licensee.
- (65) (a) "Military installation" means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:
 - (i) (A) under the control of the United States Department of Defense; or
 - (B) of the National Guard;
 - (ii) that is located within the state; and
 - (iii) including a leased facility.
- (b) "Military installation" does not include a facility used primarily for:
 - (i) civil works;
 - (ii) a rivers and harbors project; or
 - (iii) a flood control project.
- (66) "Minor" means an individual under the age of 21 years.
- (67) "Nondepartment enforcement agency" means an agency that:
 - (a) (i) is a state agency other than the department; or
 - (ii) is an agency of a county, city, or town; and
 - (b) has a responsibility to enforce one or more provisions of this title.
- (68) "Nondepartment enforcement officer" means an individual who is:
 - (a) a peace officer, examiner, or investigator; and
 - (b) employed by a nondepartment enforcement agency.
- (69) (a) "Off-premise beer retailer" means a beer retailer who is:
 - (i) licensed in accordance with Chapter 7, Part 2, Off-premise Beer Retailer Local Authority; and
 - (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's premises.
- (b) "Off-premise beer retailer" does not include an on-premise beer retailer.
- (70) "On-premise banquet license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-premise Banquet License.
- (71) "On-premise beer retailer" means a beer retailer who is:
 - (a) authorized to sell, offer for sale, or furnish beer under a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-premise Beer Retailer License; and
 - (b) engaged in the sale of beer to a patron for consumption on the beer retailer's premises:
 - (i) regardless of whether the beer retailer sells beer for consumption off the licensed premises; and
 - (ii) on and after March 1, 2012, operating:

- (A) as a tavern; or
- (B) in a manner that meets the requirements of Subsection [32B-6-703\(2\)\(e\)\(i\)](#).
- (72) "Opaque" means impenetrable to sight.
- (73) "Package agency" means a retail liquor location operated:
 - (a) under an agreement with the department; and
 - (b) by a person:
 - (i) other than the state; and
 - (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package Agency, to sell packaged liquor for consumption off the premises of the package agency.
- (74) "Package agent" means a person who holds a package agency.
- (75) "Patron" means an individual to whom food, beverages, or services are sold, offered for sale, or furnished, or who consumes an alcoholic product including:
 - (a) a customer;
 - (b) a member;
 - (c) a guest;
 - (d) an attendee of a banquet or event;
 - (e) an individual who receives room service;
 - (f) a resident of a resort;
 - (g) a public customer under a resort spa sublicense, as defined in Section [32B-8-102](#); or
 - (h) an invitee.
- (76) "Permittee" means a person issued a permit under:
 - (a) Chapter 9, Event Permit Act; or
 - (b) Chapter 10, Special Use Permit Act.
- (77) "Person subject to administrative action" means:
 - (a) a licensee;
 - (b) a permittee;
 - (c) a manufacturer;
 - (d) a supplier;
 - (e) an importer;
 - (f) one of the following holding a certificate of approval:
 - (i) an out-of-state brewer;
 - (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
 - (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
 - (g) staff of:
 - (i) a person listed in Subsections (77)(a) through (f); or
 - (ii) a package agent.
- (78) "Premises" means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.
- (79) "Prescription" means an order issued by a health care practitioner when:
 - (a) the health care practitioner is licensed under Title 58, Occupations and Professions, to prescribe a controlled substance, other drug, or device for medicinal purposes;
 - (b) the order is made in the course of that health care practitioner's professional practice; and
 - (c) the order is made for obtaining an alcoholic product for medicinal purposes only.
- (80) (a) "Private event" means a specific social, business, or recreational event:
 - (i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and
 - (ii) that is limited in attendance to people who are specifically designated and their guests.
 (b) "Private event" does not include an event to which the general public is invited, whether for an admission fee or not.
- (81) (a) "Proof of age" means:
 - (i) an identification card;
 - (ii) an identification that:
 - (A) is substantially similar to an identification card;
 - (B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;
 - (C) includes date of birth; and

- (D) has a picture affixed;
- (iii) a valid driver license certificate that:
 - (A) includes date of birth;
 - (B) has a picture affixed; and
 - (C) is issued:
 - (I) under Title 53, Chapter 3, Uniform Driver License Act; or
 - (II) in accordance with the laws of the state in which it is issued;
 - (iv) a military identification card that:
 - (A) includes date of birth; and
 - (B) has a picture affixed; or
 - (v) a valid passport.
- (b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-

207.

- (82) (a) "Public building" means a building or permanent structure that is:
 - (i) owned or leased by:
 - (A) the state; or
 - (B) a local government entity; and
 - (ii) used for:
 - (A) public education;
 - (B) transacting public business; or
 - (C) regularly conducting government activities.
- (b) "Public building" does not include a building owned by the state or a local government entity when the building is used by a person, in whole or in part, for a proprietary function.
- (83) "Public conveyance" means a conveyance to which the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.
- (84) "Reception center" means a business that:
 - (a) operates facilities that are at least 5,000 square feet; and
 - (b) has as its primary purpose the leasing of the facilities described in Subsection (84)(a) to a third party for the third party's event.
- (85) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.
- (86) (a) "Record" means information that is:
 - (i) inscribed on a tangible medium; or
 - (ii) stored in an electronic or other medium and is retrievable in a perceivable form.
- (b) "Record" includes:
 - (i) a book;
 - (ii) a book of account;
 - (iii) a paper;
 - (iv) a contract;
 - (v) an agreement;
 - (vi) a document; or
 - (vii) a recording in any medium.
- (87) "Residence" means a person's principal place of abode within Utah.
- (88) "Resident," in relation to a resort, is as defined in Section 32B-8-102.
- (89) "Resort" is as defined in Section 32B-8-102.
- (90) "Resort facility" is as defined by the commission by rule.
- (91) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.
- (92) "Restaurant" means a business location:
 - (a) at which a variety of foods are prepared;
 - (b) at which complete meals are served to the general public; and
 - (c) that is engaged primarily in serving meals to the general public.
- (93) "Retail license" means one of the following licenses issued under this title:
 - (a) a full-service restaurant license;
 - (b) a master full-service restaurant license;

- (c) a limited-service restaurant license;
 - (d) a master limited-service restaurant license;
 - (e) a club license;
 - (f) an airport lounge license;
 - (g) an on-premise banquet license;
 - (h) an on-premise beer license;
 - (i) a reception center license; or
 - (j) a beer-only restaurant license.
- (94) "Room service" means furnishing an alcoholic product to a person in a guest room of a:
- (a) hotel; or
 - (b) resort facility.
- (95) "Serve" means to place an alcoholic product before an individual.
- (96) (a) "School" means a building used primarily for the general education of minors.
 (b) "School" does not include an educational facility.
- (97) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.
- (98) "Sexually oriented entertainer" means a person who while in a state of seminudity appears at or performs:
- (a) for the entertainment of one or more patrons;
 - (b) on the premises of:
 - (i) a social club licensee; or
 - (ii) a tavern;
 - (c) on behalf of or at the request of the licensee described in Subsection (98)(b);
 - (d) on a contractual or voluntary basis; and
 - (e) whether or not the person is designated as:
 - (i) an employee;
 - (ii) an independent contractor;
 - (iii) an agent of the licensee; or
 - (iv) a different type of classification.
- (99) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.
- (100) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverages per year.
- (101) "Social club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a social club license.
- (102) "Special use permit" means a permit issued in accordance with Chapter 10, Special Use Permit Act.
- (103) (a) "Spirituous liquor" means liquor that is distilled.
 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.
- (104) "Sports center" is as defined by the commission by rule.
- (105) (a) "Staff" means an individual who engages in activity governed by this title:
- (i) on behalf of a business, including a package agent, licensee, permittee, or certificate holder;
 - (ii) at the request of the business, including a package agent, licensee, permittee, or certificate holder; or
 - (iii) under the authority of the business, including a package agent, licensee, permittee, or certificate holder.
- (b) "Staff" includes:
- (i) an officer;
 - (ii) a director;
 - (iii) an employee;
 - (iv) personnel management;
 - (v) an agent of the licensee, including a managing agent;
 - (vi) an operator; or

- (vii) a representative.
- (106) "State of nudity" means:
 - (a) the appearance of:
 - (i) the nipple or areola of a female human breast;
 - (ii) a human genital;
 - (iii) a human pubic area; or
 - (iv) a human anus; or
 - (b) a state of dress that fails to opaquely cover:
 - (i) the nipple or areola of a female human breast;
 - (ii) a human genital;
 - (iii) a human pubic area; or
 - (iv) a human anus.
- (107) "State of seminudity" means a state of dress in which opaque clothing covers no more than:
 - (a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and
 - (b) the human genitals, pubic area, and anus:
 - (i) with no less than the following at its widest point:
 - (A) four inches coverage width in the front of the human body; and
 - (B) five inches coverage width in the back of the human body; and
 - (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
- (108) (a) "State store" means a facility for the sale of packaged liquor:
 - (i) located on premises owned or leased by the state; and
 - (ii) operated by a state employee.
- (b) "State store" does not include:
 - (i) a package agency;
 - (ii) a licensee; or
 - (iii) a permittee.
- (109) (a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.
- (b) "Store" means to place or maintain in a location an alcoholic product from which a person draws to prepare an alcoholic product to be furnished to a patron, except as provided in Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii), 32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii).
- (110) "Sublicense" is as defined in Section 32B-8-102.
- (111) "Supplier" means a person who sells an alcoholic product to the department.
- (112) "Tavern" means an on-premise beer retailer who is:
 - (a) issued a license by the commission in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-premise Beer Retailer License; and
 - (b) designated by the commission as a tavern in accordance with Chapter 6, Part 7, On-premise Beer Retailer License.
- (113) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.
- (114) "Temporary domicile" means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.
- (115) "Translucent" means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.
- (116) "Unsaleable liquor merchandise" means a container that:
 - (a) is unsaleable because the container is:
 - (i) unlabeled;
 - (ii) leaky;
 - (iii) damaged;
 - (iv) difficult to open; or
 - (v) partly filled;
 - (b) (i) has faded labels or defective caps or corks;
 - (ii) has contents that are:
 - (A) cloudy;
 - (B) spoiled; or

- (C) chemically determined to be impure; or
- (iii) contains:
 - (A) sediment; or
 - (B) a foreign substance; or
 - (c) is otherwise considered by the department as unfit for sale.

(117) (a) "Wine" means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.

(b) "Wine" is considered liquor for purposes of this title, except as otherwise provided in this title.

(118) "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

Amended by Chapter 349, 2013 General Session

(Legislative Interim Committees)

36-12-5. Duties of interim committees.

(1) Except as otherwise provided by law, each interim committee shall:

(a) receive study assignments by resolution from the Legislature;

(b) receive study assignments from the Legislative Management Committee, created under Section 36-12-6;

(c) place matters on its study agenda after requesting approval of the study from the Legislative Management Committee, which request, if not disapproved by the Legislative Management Committee within 30 days of receipt of the request, the interim committee shall consider it approved and may proceed with the requested study;

(d) request research reports from the professional legislative staff pertaining to the committee's agenda of study;

(e) investigate and study possibilities for improvement in government services within its subject area;

(f) accept reports from the professional legislative staff and make recommendations for legislative action with respect to such reports; and

(g) prepare and recommend to the Legislature a legislative program in response to the committee's study agenda.

(2) Except as otherwise provided by law, reports and recommendations of the interim committees shall be completed and made public prior to any legislative session at which the reports and recommendations are submitted. A copy of the reports and recommendations shall be mailed to each member or member-elect of the Legislature, to each elective state officer, and to the state library.

Amended by Chapter 177, 2013 General Session

(Legislative Research)

[excerpts]

36-12-12. Office of Legislative Research and General Counsel -- Established -- Powers, functions, and duties -- Organization of office -- Selection of director and general counsel.

(1) There is established an Office of Legislative Research and General Counsel as a permanent staff office for the Legislature.

(2) The powers, functions, and duties of the Office of Legislative Research and General Counsel under the supervision of the director shall be:

[...]

(d) to maintain a legislative research library that provides analytical, statistical, legal, and descriptive data relative to current and potential governmental and legislative subjects;

Amended by Chapter 92, 2003 General Session

(Use of State Library by Legislature)

36-12-18. Offices for Legislative Management Committee and professional legislative staff -- Hours -- Library facilities available -- Documents, reports, and information available.

The Legislative Management Committee and the professional legislative staff shall be provided with adequate quarters in the State Capitol Complex convenient to the members of the Legislature and other persons having official business with them. The offices shall be open during the time provided by law for other state offices, and when the Legislature is in session, at such hours as are convenient to the legislators. The facilities of the state library and other libraries maintained by the state shall be available for use by all legislative committees and subcommittees and the professional legislative staff. Each department, division, commission, agency, or other instrumentality of state government shall furnish to all the legislative committees and subcommittees and the professional legislative staff upon request any document, reports, or information available within the department.

Amended by Chapter 121, 2007 General Session

(Open Meetings)

52-4-201. Meetings open to the public -- Exceptions.

(1) A meeting is open to the public unless closed under Sections **52-4-204**, **52-4-205**, and **52-4-206**.

(2) (a) A meeting that is open to the public includes a workshop or an executive session of a public body in which a quorum is present, unless closed in accordance with this chapter.

(b) A workshop or an executive session of a public body in which a quorum is present that is held on the same day as a regularly scheduled public meeting of the public body may only be held at the location where the public body is holding the regularly scheduled public meeting unless:

(i) the workshop or executive session is held at the location where the public body holds its regularly scheduled public meetings but, for that day, the regularly scheduled public meeting is being held at different location;

(ii) any of the meetings held on the same day is a site visit or a traveling tour and, in accordance with this chapter, public notice is given;

(iii) the workshop or executive session is an electronic meeting conducted according to the requirements of Section **52-4-207**; or

(iv) it is not practicable to conduct the workshop or executive session at the regular location of the public body's open meetings due to an emergency or extraordinary circumstances.

Amended by Chapter 263, 2006 General Session

52-4-202. Public notice of meetings -- Emergency meetings.

(1) A public body shall give not less than 24 hours public notice of each meeting including the meeting:

- (a) agenda;
- (b) date;
- (c) time; and
- (d) place.

(2) (a) In addition to the requirements under Subsection (1), a public body which holds regular meetings that are scheduled in advance over the course of a year shall give public notice at least once each year of its annual meeting schedule as provided in this section.

(b) The public notice under Subsection (2)(a) shall specify the date, time, and place of the scheduled meetings.

(3) (a) Public notice shall be satisfied by:

(i) posting written notice:

(A) at the principal office of the public body, or if no principal office exists, at the building where the meeting is to be held; and

(B) beginning October 1, 2008 and except as provided in Subsection (3)(b), on the Utah Public Notice Website created under Section **63F-1-701**; and

(ii) providing notice to:

(A) at least one newspaper of general circulation within the geographic jurisdiction of the public body;
or

(B) a local media correspondent.

(b) A public body of a municipality under Title 10, Utah Municipal Code, a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, is encouraged, but not required, to post written notice on the Utah Public Notice Website, if the municipality or district has a current annual budget of less than \$1 million.

(c) A public body is in compliance with the provisions of Subsection (3)(a)(ii) by providing notice to a newspaper or local media correspondent under the provisions of Subsection **63F-1-701**(4)(d).

(4) A public body is encouraged to develop and use additional electronic means to provide notice of its meetings under Subsection (3).

(5) (a) The notice requirement of Subsection (1) may be disregarded if:

(i) because of unforeseen circumstances it is necessary for a public body to hold an emergency meeting to consider matters of an emergency or urgent nature; and

(ii) the public body gives the best notice practicable of:

(A) the time and place of the emergency meeting; and

(B) the topics to be considered at the emergency meeting.

(b) An emergency meeting of a public body may not be held unless:

(i) an attempt has been made to notify all the members of the public body; and

(ii) a majority of the members of the public body approve the meeting.

(6) (a) A public notice that is required to include an agenda under Subsection (1) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting. Each topic shall be listed under an agenda item on the meeting agenda.

(b) Subject to the provisions of Subsection (6)(c), and at the discretion of the presiding member of the public body, a topic raised by the public may be discussed during an open meeting, even if the topic raised by the public was not included in the agenda or advance public notice for the meeting.

(c) Except as provided in Subsection (5), relating to emergency meetings, a public body may not take final action on a topic in an open meeting unless the topic is:

(i) listed under an agenda item as required by Subsection (6)(a); and

(ii) included with the advance public notice required by this section.

Amended by Chapter 5, 2009 Special Session 1

52-4-203. Written minutes of open meetings -- Public records -- Recording of meetings.

(1) Except as provided under Subsection (7), written minutes and a recording shall be kept of all open meetings.

(2) Written minutes of an open meeting shall include:

(a) the date, time, and place of the meeting;

(b) the names of members present and absent;

(c) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;

(d) a record, by individual member, of each vote taken by the public body;

(e) the name of each person who:

(i) is not a member of the public body; and

(ii) after being recognized by the presiding member of the public body, provided testimony or comments to the public body;

(f) the substance, in brief, of the testimony or comments provided by the public under Subsection (2)(e); and

(g) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes or recording.

(3) A recording of an open meeting shall:

(a) be a complete and unedited record of all open portions of the meeting from the commencement of the meeting through adjournment of the meeting; and

(b) be properly labeled or identified with the date, time, and place of the meeting.

(4) (a) As used in this Subsection (4):

(i) "Approved minutes" means written minutes:

(A) of an open meeting; and

(B) that have been approved by the public body that held the open meeting.

(ii) "Pending minutes" means written minutes:

(A) of an open meeting; and

(B) that have been prepared in draft form and are subject to change before being approved by the public body that held the open meeting.

(iii) "Specified local public body" means a legislative body of a county, city, or town.

(iv) "State public body" means a public body that is an administrative, advisory, executive, or legislative body of the state.

(v) "Website" means the Utah Public Notice Website created under Section 63F-1-701.

(b) Pending minutes, approved minutes, and a recording of a public meeting are public records under Title 63G, Chapter 2, Government Records Access and Management Act.

(c) Pending minutes shall contain a clear indication that the public body has not yet approved the minutes or that the minutes are subject to change until the public body approves them.

(d) A state public body shall:

(i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes of an open meeting, post to the website and make available to the public at the public body's primary office a copy of the approved minutes and any public materials distributed at the meeting; and

(iii) within three business days after holding an open meeting, post on the website an audio recording of the open meeting, or a link to the recording.

(e) (i) A specified local public body shall:

(A) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;

(B) subject to Subsection (4)(e)(ii), within three business days after approving written minutes of an open meeting, post to the website and make available to the public at the public body's primary office a copy of the approved minutes and any public materials distributed at the meeting; and

(C) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.

(ii) A specified local public body of a city of the fifth class or town is encouraged to comply with Subsection (4)(e)(i)(B) but is not required to comply until January 1, 2015.

(f) A public body that is not a state public body or a specified local public body shall:

(i) make pending minutes available to the public within a reasonable time after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes, make the approved minutes available to the public; and

(iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.

(g) A public body shall establish and implement procedures for the public body's approval of the written minutes of each meeting.

(h) Approved minutes of an open meeting are the official record of the meeting.

(5) All or any part of an open meeting may be independently recorded by any person in attendance if the recording does not interfere with the conduct of the meeting.

(6) The written minutes or recording of an open meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.

(7) Notwithstanding Subsection (1), a recording is not required to be kept of:

(a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken by the public body; or

(b) an open meeting of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, if the district's annual budgeted expenditures for all funds, excluding capital expenditures and debt service, are \$50,000 or less.

Amended by Chapter 63, 2013 General Session

52-4-204. Closed meeting held upon vote of members -- Business -- Reasons for meeting recorded.

- (1) A closed meeting may be held if:
 - (a) (i) a quorum is present;
 - (ii) the meeting is an open meeting for which notice has been given under Section [52-4-202](#); and
 - (iii) (A) two-thirds of the members of the public body present at the open meeting vote to approve closing the meeting;
 - (B) for a meeting that is required to be closed under Section [52-4-205](#), if a majority of the members of the public body present at an open meeting vote to approve closing the meeting;
 - (C) for an ethics committee of the Legislature that is conducting an open meeting for the purpose of reviewing an ethics complaint, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint; or
 - (D) for the Political Subdivisions Ethics Review Commission established in Section [11-49-201](#) that is conducting an open meeting for the purpose of reviewing an ethics complaint in accordance with Section [11-49-701](#), a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint; or
 - (b) (i) for the Independent Legislative Ethics Commission, the closed meeting is convened for the purpose of conducting business relating to the receipt or review of an ethics complaint, provided that public notice of the closed meeting is given under Section [52-4-202](#), with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the receipt or review of ethics complaints";
 - (ii) for the Political Subdivisions Ethics Review Commission established in Section [11-49-201](#), the closed meeting is convened for the purpose of conducting business relating to the preliminary review of an ethics complaint in accordance with Section [11-49-602](#), provided that public notice of the closed meeting is given under Section [52-4-202](#), with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the review of ethics complaints"; or
 - (iii) for the Independent Executive Branch Ethics Commission created in Section [63A-14-202](#), the closed meeting is convened for the purpose of conducting business relating to an ethics complaint, provided that public notice of the closed meeting is given under Section [52-4-202](#), with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to an ethics complaint."
- (2) A closed meeting is not allowed unless each matter discussed in the closed meeting is permitted under Section [52-4-205](#).
 - (3) An ordinance, resolution, rule, regulation, contract, or appointment may not be approved at a closed meeting.
 - (4) The following information shall be publicly announced and entered on the minutes of the open meeting at which the closed meeting was approved:
 - (a) the reason or reasons for holding the closed meeting;
 - (b) the location where the closed meeting will be held; and
 - (c) the vote by name, of each member of the public body, either for or against the motion to hold the closed meeting.
 - (5) Except as provided in Subsection [52-4-205\(2\)](#), nothing in this chapter shall be construed to require any meeting to be closed to the public.

Amended by Chapter 426, 2013 General Session

52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.

- (1) A closed meeting described under Section [52-4-204](#) may only be held for:
 - (a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;
 - (b) strategy sessions to discuss collective bargaining;
 - (c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, if public discussion of the transaction would:

- (i) disclose the appraisal or estimated value of the property under consideration; or
- (ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

(i) public discussion of the transaction would:

- (A) disclose the appraisal or estimated value of the property under consideration; or
- (B) prevent the public body from completing the transaction on the best possible terms;
- (ii) the public body previously gave public notice that the property would be offered for sale; and
- (iii) the terms of the sale are publicly disclosed before the public body approves the sale;
- (f) discussion regarding deployment of security personnel, devices, or systems;
- (g) investigative proceedings regarding allegations of criminal misconduct;
- (h) as relates to the Independent Legislative Ethics Commission, conducting business relating to

the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);

(j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;

(k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;

(l) as relates to the Utah Higher Education Assistance Authority and its appointed board of directors, discussing fiduciary or commercial information as defined in Section 53B-12-102; or

(m) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a fatality review report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4);

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a fatality review report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4); or

(ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5); and

(c) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law.

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

Amended by Chapter 238, 2013 General Session

Amended by Chapter 426, 2013 General Session

52-4-206. Record of closed meetings.

(1) Except as provided under Subsection (6), if a public body closes a meeting under Subsection 52-4-205(1), the public body:

(a) shall make a recording of the closed portion of the meeting; and

(b) may keep detailed written minutes that disclose the content of the closed portion of the meeting.

(2) A recording of a closed meeting shall be complete and unedited from the commencement of the closed meeting through adjournment of the closed meeting.

(3) The recording and any minutes of a closed meeting shall include:

(a) the date, time, and place of the meeting;

- (b) the names of members present and absent; and
- (c) the names of all others present except where the disclosure would infringe on the confidentiality necessary to fulfill the original purpose of closing the meeting.
- (4) Minutes or recordings of a closed meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.
- (5) Both a recording and written minutes of closed meetings are protected records under Title 63G, Chapter 2, Government Records Access and Management Act, except that the records may be disclosed under a court order only as provided under Section **52-4-304**.
- (6) If a public body closes a meeting exclusively for the purposes described under Subsection **52-4-205**(1)(a), (1)(f), or (2):
 - (a) the person presiding shall sign a sworn statement affirming that the sole purpose for closing the meeting was to discuss the purposes described under Subsection **52-4-205**(1)(a),(1)(f), or (2); and
 - (b) the provisions of Subsection (1) of this section do not apply.

Amended by Chapter 239, 2010 General Session

52-4-207. Electronic meetings -- Authorization -- Requirements.

- (1) Except as otherwise provided for a charter school in Section **52-4-209**, a public body may convene and conduct an electronic meeting in accordance with this section.
- (2) (a) A public body may not hold an electronic meeting unless the public body has adopted a resolution, rule, or ordinance governing the use of electronic meetings.
 - (b) The resolution, rule, or ordinance may:
 - (i) prohibit or limit electronic meetings based on budget, public policy, or logistical considerations;
 - (ii) require a quorum of the public body to:
 - (A) be present at a single anchor location for the meeting; and
 - (B) vote to approve establishment of an electronic meeting in order to include other members of the public body through an electronic connection;
 - (iii) require a request for an electronic meeting to be made by a member of a public body up to three days prior to the meeting to allow for arrangements to be made for the electronic meeting;
 - (iv) restrict the number of separate connections for members of the public body that are allowed for an electronic meeting based on available equipment capability; or
 - (v) establish other procedures, limitations, or conditions governing electronic meetings not in conflict with this section.
- (3) A public body that convenes or conducts an electronic meeting shall:
 - (a) give public notice of the meeting:
 - (i) in accordance with Section **52-4-202**; and
 - (ii) post written notice at the anchor location;
 - (b) in addition to giving public notice required by Subsection (3)(a), provide:
 - (i) notice of the electronic meeting to the members of the public body at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present; and
 - (ii) a description of how the members will be connected to the electronic meeting;
 - (c) establish one or more anchor locations for the public meeting, at least one of which is in the building and political subdivision where the public body would normally meet if they were not holding an electronic meeting;
 - (d) provide space and facilities at the anchor location so that interested persons and the public may attend and monitor the open portions of the meeting; and
 - (e) if comments from the public will be accepted during the electronic meeting, provide space and facilities at the anchor location so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

- (4) Compliance with the provisions of this section by a public body constitutes full and complete compliance by the public body with the corresponding provisions of Sections **52-4-201** and **52-4-202**.
- Amended by Chapter 31, 2011 General Session**

(School Library Standards)

53A-1-402. Board to establish minimum standards for public schools.

(1) The State Board of Education shall establish rules and minimum standards for the public schools that are consistent with this title, including rules and minimum standards governing the following:

(a) (i) the qualification and certification of educators and ancillary personnel who provide direct student services;

(ii) required school administrative and supervisory services; and

(iii) the evaluation of instructional personnel;

(b) (i) access to programs;

(ii) attendance;

(iii) competency levels;

(iv) graduation requirements; and

(v) discipline and control;

(c) (i) school accreditation;

(ii) the academic year;

(iii) alternative and pilot programs;

(iv) curriculum and instruction requirements;

(v) school libraries; and

(vi) services to:

(A) persons with a disability as defined by and covered under:

(I) the Americans with Disabilities Act of 1990, 42 U.S.C. 12102;

(II) the Rehabilitation Act of 1973, 29 U.S.C. 705(20)(A); and

(III) the Individuals with Disabilities Education Act, 20 U.S.C. 1401(3); and

(B) other special groups;

(d) (i) state reimbursed bus routes;

(ii) bus safety and operational requirements; and

(iii) other transportation needs; and

(e) (i) school productivity and cost effectiveness measures;

(ii) federal programs;

(iii) school budget formats; and

(iv) financial, statistical, and student accounting requirements.

(2) The board shall determine if:

(a) the minimum standards have been met; and

(b) required reports are properly submitted.

(3) The board may apply for, receive, administer, and distribute to eligible applicants funds made available through programs of the federal government.

(4) (a) The Utah College of Applied Technology shall provide competency-based career and technical education courses that fulfill high school graduation requirements, as requested and authorized by the State Board of Education.

(b) A school district may grant a high school diploma to a student participating in courses described under Subsection (4)(a) that are provided by the Utah College of Applied Technology.

Amended by Chapter 227, 2005 General Session

53A-3-402. Powers and duties generally.

(1) Each local school board shall:

(a) implement the core curriculum utilizing instructional materials that best correlate to the core curriculum and graduation requirements;

(b) administer tests, required by the State Board of Education, which measure the progress of each student, and coordinate with the state superintendent and State Board of Education to assess results and create plans to improve the student's progress which shall be submitted to the State Office of Education for approval;

(c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;

(d) develop early warning systems for students or classes failing to make progress;

(e) work with the State Office of Education to establish a library of documented best practices, consistent with state and federal regulations, for use by the local districts; and

(f) implement training programs for school administrators, including basic management training, best practices in instructional methods, budget training, staff management, managing for learning results and continuous improvement, and how to help every child achieve optimal learning in core academics.

(2) Local school boards shall spend minimum school program funds for programs and activities for which the State Board of Education has established minimum standards or rules under Section 53A-1-402.

(3) (a) A board may purchase, sell, and make improvements on school sites, buildings, and equipment and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on board resolution affirmed by at least two-thirds of the members.

(4) (a) A board may participate in the joint construction or operation of a school attended by children residing within the district and children residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

(i) be signed by the president of the board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the State Board of Education.

(5) A board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) Except as provided in Section 53A-1-1001, a board may enroll children in school who are at least five years of age before September 2 of the year in which admission is sought.

(7) A board may establish and support school libraries.

(8) A board may collect damages for the loss, injury, or destruction of school property.

(9) A board may authorize guidance and counseling services for children and their parents or guardians prior to, during, or following enrollment of the children in schools.

(10) (a) A board shall administer and implement federal educational programs in accordance with Title 53A, Chapter 1, Part 9, Implementing Federal Programs Act.

(b) Federal funds are not considered funds within the school district budget under Title 53A, Chapter 19, School District Budgets.

(11) (a) A board may organize school safety patrols and adopt rules under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.

(12) (a) A board may on its own behalf, or on behalf of an educational institution for which the board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

(b) These contributions are not subject to appropriation by the Legislature.

(13) (a) A board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection 76-10-105(2).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

(14) A board shall adopt bylaws and rules for its own procedures.

(15) (a) A board shall make and enforce rules necessary for the control and management of the district schools.

(b) All board rules and policies shall be in writing, filed, and referenced for public access.

(16) A board may hold school on legal holidays other than Sundays.

(17) (a) Each board shall establish for each school year a school traffic safety committee to implement this Subsection (17).

(b) The committee shall be composed of one representative of:

(i) the schools within the district;

(ii) the Parent Teachers' Association of the schools within the district;

(iii) the municipality or county;

- (iv) state or local law enforcement; and
- (v) state or local traffic safety engineering.
- (c) The committee shall:
 - (i) receive suggestions from school community councils, parents, teachers, and others and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;
 - (ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;
 - (iii) consult the Utah Safety Council and the Division of Family Health Services and provide training to all school children in kindergarten through grade six, within the district, on school crossing safety and use; and
 - (iv) help ensure the district's compliance with rules made by the Department of Transportation under Section [41-6a-303](#).
- (d) The committee may establish subcommittees as needed to assist in accomplishing its duties under Subsection (17)(c).
- (18) (a) Each school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in its public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events.
 - (b) The board shall implement its plan by July 1, 2000.
 - (c) The plan shall:
 - (i) include prevention, intervention, and response components;
 - (ii) be consistent with the student conduct and discipline policies required for school districts under Title 53A, Chapter 11, Part 9, School Discipline and Conduct Plans;
 - (iii) require inservice training for all district and school building staff on what their roles are in the emergency response plan; and
 - (iv) provide for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (18)(a).
 - (d) The State Board of Education, through the state superintendent of public instruction, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (18)(a).
 - (e) Each local school board shall, by July 1 of each year, certify to the State Board of Education that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and their parents and local law enforcement and public safety representatives.
- (19) (a) Each local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.
 - (b) The plan may be implemented by each secondary school in the district that has a sports program for students.
 - (c) The plan may:
 - (i) include emergency personnel, emergency communication, and emergency equipment components;
 - (ii) require inservice training on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and
 - (iii) provide for coordination with individuals and agency representatives who:
 - (A) are not employees of the school district; and
 - (B) would be involved in providing emergency services to students injured while participating in sports events.
 - (d) The board, in collaboration with the schools referred to in Subsection (19)(b), may review the plan each year and make revisions when required to improve or enhance the plan.
 - (e) The State Board of Education, through the state superintendent of public instruction, shall provide local school boards with an emergency plan response model that local boards may use to comply with the requirements of this Subsection (19).
 - (20) A board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.
 - (21) (a) Before closing a school or changing the boundaries of a school, a board shall:

- (i) hold a public hearing, as defined in Section [10-9a-103](#); and
- (ii) provide public notice of the public hearing, as specified in Subsection (21)(b).

(b) The notice of a public hearing required under Subsection (21)(a) shall:

- (i) indicate the:
 - (A) school or schools under consideration for closure or boundary change; and
 - (B) date, time, and location of the public hearing; and
- (ii) at least 10 days prior to the public hearing, be:
 - (A) published:
 - (I) in a newspaper of general circulation in the area; and
 - (II) on the Utah Public Notice Website created in Section [63F-1-701](#); and
 - (B) posted in at least three public locations within the municipality or on the district's official website.

(22) A board may implement a facility energy efficiency program established under Title 11, Chapter 44, Facility Energy Efficiency Act.

Amended by Chapter 296, 2013 General Session

53A-17a-155. Appropriation for library books and electronic resources.

(1) The State Board of Education shall distribute money appropriated for library books and electronic resources as follows:

- (a) 25% shall be divided equally among all public schools; and
- (b) 75% shall be divided among public schools based on each school's average daily membership as compared to the total average daily membership.

(2) A school district or charter school may not use money distributed under Subsection (1) to supplant other money used to purchase library books or electronic resources.

Amended by Chapter 3, 2010 General Session

(Utah Education Network - UEN)

53B-17-102. Utah Education Network.

(1) (a) As used in this part, "Utah Education Network" and "UEN" mean a consortium and partnership between public and higher education established to:

- (i) coordinate and support the telecommunications needs of public and higher education, public libraries, and entities affiliated with the state systems of public and higher education as approved by the Utah Education Network Board, including the statewide development and implementation of a network for education, utilizing satellite, microwave, fiber-optic, broadcast, and other transmission media;
- (ii) coordinate the various telecommunications technology initiatives of public and higher education;
- (iii) provide high-quality, cost-effective Internet access and appropriate interface equipment for schools and school systems;
- (iv) procure, install, and maintain telecommunication services and equipment on behalf of public and higher education;
- (v) develop or implement other programs or services for the delivery of distance learning as directed by law; and
- (vi) apply for state and federal funding on behalf of public and higher education.

(b) In performing the duties under this Subsection (1), UEN shall:

- (i) provide services to schools, school districts, and the public and higher education systems through an open and competitive bidding process;
- (ii) work with the private sector to deliver high-quality, cost-effective services;
- (iii) avoid duplicating facilities, equipment or services of private providers of public telecommunications service, as defined under Section **54-8b-2**;
- (iv) utilize statewide economic development criteria in the design and implementation of the educational telecommunications infrastructure; and
- (v) assure that public service entities such as educators, public service providers, and public broadcasters are provided access to the telecommunications infrastructure developed in the state.

(2) The University of Utah shall provide administrative management for UEN.

(3) (a) The Utah Education Network Board, which is the governing board for UEN, is created.

- (b) The Utah Education Network Board shall be appointed as follows:
- (i) (A) The State Board of Education shall appoint four members to represent the state system of public education.
 (B) In selecting members to represent the state system of public education, the State Board of Education shall select members from different regions of the state and both urban and rural areas.
- (ii) (A) The commissioner of higher education shall appoint four members to represent the state system of higher education.
 (B) In selecting members to represent the state system of higher education, the commissioner of higher education shall select members from different regions of the state and both urban and rural areas.
- (iii) The president of the Utah College of Applied Technology shall appoint one member to represent the Utah College of Applied Technology.
- (iv) The governor shall appoint:
 (A) one member to represent the state library; and
 (B) one member to represent the Office of the Governor.
- (c) Except as required by Subsection (3)(d), members shall be appointed to four-year terms.
- (d) The governor, State Board of Education, and commissioner of higher education shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of Utah Education Network Board members are staggered so that approximately half of the Utah Education Network Board is appointed every two years.
- (e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (f) (i) The Utah Education Network Board shall elect:
 (A) a cochair from the members representing the state system of public education; and
 (B) a cochair from the members representing the state system of higher education.
 (ii) The cochairs shall set the agenda for Utah Education Network Board meetings.
- (4) A member of the Utah Education Network Board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
- (a) Section **63A-3-106**;
 (b) Section **63A-3-107**; and
 (c) rules made by the Division of Finance pursuant to Sections **63A-3-106** and **63A-3-107**.
- (5) The Utah Education Network Board shall:
- (a) hire an executive director for UEN, and may terminate the executive director's employment or assignment;
 (b) determine the executive director's salary;
 (c) annually conduct a performance evaluation of the executive director;
 (d) establish policies the Utah Education Network Board determines are necessary for the operation of UEN and the administration of UEN's duties;
 (e) advise UEN in:
 (i) the development and operation of a coordinated, statewide, multi-option telecommunications system to assist in the delivery of educational services throughout the state; and
 (ii) acquiring, producing, and distributing instructional content; and
 (f) establish an advisory council to assist the Utah Education Network Board in performing its responsibilities under Subsection (5)(e).
- (6) The executive director of UEN shall be an at-will employee.
- (7) UEN shall locate and maintain educational telecommunication infrastructure throughout the state.
- (8) Educational institutions shall manage site operations under policy established by UEN.
- (9) Subject to future budget constraints, the Legislature shall provide an annual appropriation to operate UEN.
- (10) If the network operated by the Department of Technology Services is not available, UEN may provide network connections to the central administration of counties and municipalities for the sole purpose of transferring data to a secure facility for backup and disaster recovery.

Amended by Chapter 16, 2012 General Session

(Controlled Substances)

58-37-8. Prohibited acts -- Penalties.

(1) Prohibited acts A -- Penalties:

(a) Except as authorized by this chapter, it is unlawful for any person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;

(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;

(iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct which results in any violation of any provision of Title 58, Chapters 37, 37a, 37b, 37c, or 37d that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of Title 58, Chapters 37, 37a, 37b, 37c, or 37d on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) Any person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony and upon a second or subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section **58-37-4.2** is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c) Any person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of fact finds a firearm as defined in Section **76-10-501** was used, carried, or possessed on his person or in his immediate possession during the commission or in furtherance of the offense, the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently.

(d) Any person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than seven years and which may be for life. Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(2) Prohibited acts B -- Penalties:

(a) It is unlawful:

(i) for any person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for any owner, tenant, licensee, or person in control of any building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or

(iii) for any person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) Any person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;

(ii) a substance classified in Schedule I or II, marijuana, if the amount is more than 16 ounces, but less than 100 pounds, or a controlled substance analog, is guilty of a third degree felony; or

(iii) marijuana, if the marijuana is not in the form of an extracted resin from any part of the plant, and the amount is more than one ounce but less than 16 ounces, is guilty of a class A misdemeanor.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) Any person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i), (ii), or (iii), including a substance listed in Section **58-37-4.2**, or less than one ounce of marijuana, is guilty of a class B misdemeanor. Upon a second conviction the person is guilty of a class A misdemeanor, and upon a third or subsequent conviction the person is guilty of a third degree felony.

(e) Any person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by any correctional facility as defined in Section **64-13-1** or any public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) Any person convicted of violating Subsection (2)(a)(ii) or (iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not amounting to a violation of Section **76-5-207**:

(i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's body any measurable amount of a controlled substance; and

(ii) operates a motor vehicle as defined in Section **76-5-207** in a negligent manner, causing serious bodily injury as defined in Section **76-1-601** or the death of another.

(h) A person who violates Subsection (2)(g) by having in the person's body:

(i) a controlled substance classified under Schedule I, other than those described in Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second degree felony;

(ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection **58-37-4(2)(a)(iii)(S)** or (AA), or a substance listed in Section **58-37-4.2** is guilty of a third degree felony; or

(iii) any controlled substance classified under Schedules III, IV, or V is guilty of a class A misdemeanor.

(i) A person is guilty of a separate offense for each victim suffering serious bodily injury or death as a result of the person's negligent driving in violation of Subsection **58-37-8(2)(g)** whether or not the injuries arise from the same episode of driving.

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for any person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to any person known to be attempting to acquire or obtain possession of, or to procure the administration of any controlled substance by misrepresentation or failure by the person to disclose receiving any controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make any false or forged prescription or written order for a controlled substance, or to utter the same, or to alter any prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render any drug a counterfeit controlled substance.

(b) Any person convicted of violating Subsection (3)(a) is guilty of a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act declared to be unlawful under this section, Title 58, Chapter 37a, Utah Drug Paraphernalia Act, or under Title 58, Chapter 37b, Imitation Controlled Substances Act, is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions;

(iii) in those portions of any building, park, stadium, or other structure or grounds which are, at the time of the act, being used for an activity sponsored by or through a school or institution under Subsections (4)(a)(i) and (ii);

(4)(a)(i) and (ii);

(iv) in or on the grounds of a preschool or child-care facility;

(v) in a public park, amusement park, arcade, or recreation center;

(vi) in or on the grounds of a house of worship as defined in Section **76-10-501**;

(vii) in a shopping mall, sports facility, stadium, arena, theater, movie house, playhouse, or parking lot or structure adjacent thereto;

(viii) in or on the grounds of a library;

(ix) within any area that is within 1,000 feet of any structure, facility, or grounds included in Subsections (4)(a)(i), (ii), (iv), (vi), and (vii);

(x) in the presence of a person younger than 18 years of age, regardless of where the act occurs; or

(xi) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of any correctional facility as defined in Section **76-8-311.3**.

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

(d) (i) If the violation is of Subsection (4)(a)(xi):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to any person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(xi).

(e) It is not a defense to a prosecution under this Subsection (4) that the actor mistakenly believed the individual to be 18 years of age or older at the time of the offense or was unaware of the individual's true age; nor that the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) Any violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) For purposes of penalty enhancement under Subsections (1)(b) and (2)(c), a plea of guilty or no contest to a violation of this section which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8) (a) Any penalty imposed for violation of this section is in addition to, and not in lieu

of, any civil or administrative penalty or sanction authorized by law.

(b) Where violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof which shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) any person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research; or

(b) any law enforcement officer acting in the course and legitimate scope of the officer's employment.

(12) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Subsection **58-37-2(1)(v)**, who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Subsection **58-37-2(1)(w)**.

(b) In a prosecution alleging violation of this section regarding peyote as defined in Subsection **58-37-4(2)(a)(iii)(V)**, it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days prior to trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13) (a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section **58-37-4.2** if the person:

(i) was engaged in medical research; and

(ii) was a holder of a valid license to possess controlled substances under Section **58-37-6**.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section **58-37-4.2**.

(14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section **58-37-4.2** if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section **58-37-6**; and

(b) the substance was administered to the person by the medical researcher.

(15) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

(16) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

Amended by Chapter 12, 2011 General Session

(Maximum Levy Limitation Exceptions)

59-2-911 Exceptions to maximum levy limitation.

(1) The maximum levies set forth in Section **59-2-908** do not apply to and do not include:

[...]

(d) levies made for county library services;

(Tax Exempt Status of Libraries)

59-2-1101 (Effective 01/01/14). Definitions -- Exemption of certain property -- Proportional payments for certain property -- County legislative body authority to adopt rules or ordinances.

- (1) As used in this section:
 - (a) "Educational purposes" includes:
 - (i) the physical or mental teaching, training, or conditioning of competitive athletes by a national governing body of sport recognized by the United States Olympic Committee that qualifies as being tax exempt under Section 501(c)(3) of the Internal Revenue Code; and
 - (ii) an activity in support of or incidental to the teaching, training, or conditioning described in Subsection (1)(a)(i).
 - (b) "Exclusive use exemption" means a property tax exemption under Subsection (3)(a)(iv), for property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes.
 - (c) "Government exemption" means a property tax exemption provided under Subsection (3)(a)(i), (ii), or (iii).
 - (d) "Nonprofit entity" includes an entity if the:
 - (i) entity is treated as a disregarded entity for federal income tax purposes;
 - (ii) entity is wholly owned by, and controlled under the direction of, a nonprofit entity; and
 - (iii) net earnings and profits of the entity irrevocably inure to the benefit of a nonprofit entity.
 - (e) "Tax relief" means an exemption, deferral, or abatement that is authorized by this part.
- (2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if the claimant is the owner of the property as of January 1 of the year the exemption is claimed.
- (b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional tax based upon the length of time that the property was not owned by the claimant if:
 - (i) the claimant is a federal, state, or political subdivision entity described in Subsection (3)(a)(i), (ii), or (iii); or
 - (ii) pursuant to Subsection (3)(a)(iv):
 - (A) the claimant is a nonprofit entity; and
 - (B) the property is used exclusively for religious, charitable, or educational purposes.
 - (c) Notwithstanding Subsection (2)(a), a claimant may be allowed a veteran's exemption in accordance with Sections [59-2-1104](#) and [59-2-1105](#) regardless of whether the claimant is the owner of the property as of January 1 of the year the exemption is claimed if the claimant is:
 - (i) the unmarried surviving spouse of:
 - (A) a deceased veteran with a disability as defined in Section [59-2-1104](#); or
 - (B) a veteran who was killed in action or died in the line of duty as defined in Section [59-2-1104](#);
 - or
 - (ii) a minor orphan of:
 - (A) a deceased veteran with a disability as defined in Section [59-2-1104](#); or
 - (B) a veteran who was killed in action or died in the line of duty as defined in Section [59-2-1104](#).
 - (3) (a) The following property is exempt from taxation:
 - (i) property exempt under the laws of the United States;
 - (ii) property of:
 - (A) the state;
 - (B) school districts; and
 - (C) public libraries;
 - (iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:
 - (A) counties;
 - (B) cities;
 - (C) towns;
 - (D) local districts;
 - (E) special service districts; and
 - (F) all other political subdivisions of the state;

(iv) property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes;

(v) places of burial not held or used for private or corporate benefit;

(vi) farm equipment and machinery;

(vii) intangible property; and

(viii) the ownership interest of an out-of-state public agency, as defined in Section **11-13-103**:

(A) if that ownership interest is in property providing additional project capacity, as defined in Section **11-13-103**; and

(B) on which a fee in lieu of ad valorem property tax is payable under Section **11-13-302**.

(3)(a)(ii)(B), a charter school under Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act, is considered to be a school district.

(4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or a government exemption ceases to qualify for the exemption because of a change in the ownership of the property:

(a) the new owner of the property shall pay a proportional tax based upon the period of time:

(i) beginning on the day that the new owner acquired the property; and

(ii) ending on the last day of the calendar year during which the new owner acquired the property;

and

(b) the new owner of the property and the person from whom the new owner acquires the property shall notify the county assessor, in writing, of the change in ownership of the property within 30 days from the day that the new owner acquires the property.

(5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection (4)(a):

(a) is subject to any exclusive use exemption or government exemption that the property is entitled to under the new ownership of the property; and

(b) applies only to property that is acquired after December 31, 2005.

(6) A county legislative body may adopt rules or ordinances to:

(a) effectuate the exemptions, deferrals, abatements, or other relief from taxation provided in this part; and

(b) designate one or more persons to perform the functions given the county under this part.

Amended by Chapter 248, 2013 General Session

(Private Records [GRAMA])

63G-2-103. Definitions.

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:

(a) the time and general nature of police, fire, and paramedic calls made to the agency; and

(b) any arrests or jail bookings made by the agency.

(3) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection **63G-2-201**(3)(b).

(4) (a) "Computer program" means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

- (b) "Computer program" does not mean:
 - (i) the original data, including numbers, text, voice, graphics, and images;
 - (ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or
 - (iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.
- (5) (a) "Contractor" means:
 - (i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or
 - (ii) any private, nonprofit organization that receives funds from a governmental entity.
- (b) "Contractor" does not mean a private provider.
- (6) "Controlled record" means a record containing data on individuals that is controlled as provided by Section **63G-2-304**.
- (7) "Designation," "designate," and their derivative forms mean indicating, based on a governmental entity's familiarity with a record series or based on a governmental entity's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.
- (8) "Elected official" means each person elected to a state office, county office, municipal office, school board or school district office, local district office, or special service district office, but does not include judges.
- (9) "Explosive" means a chemical compound, device, or mixture:
 - (a) commonly used or intended for the purpose of producing an explosion; and
 - (b) that contains oxidizing or combustive units or other ingredients in proportions, quantities, or packing so that:
 - (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and
 - (ii) the resultant gaseous pressures are capable of:
 - (A) producing destructive effects on contiguous objects; or
 - (B) causing death or serious bodily injury.
- (10) "Government audit agency" means any governmental entity that conducts an audit.
- (11) (a) "Governmental entity" means:
 - (i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the State Board of Regents, and the State Archives;
 - (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;
 - (iii) courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;
 - (iv) any state-funded institution of higher education or public education; or
 - (v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section **63G-2-701**, this chapter shall apply to the political subdivision to the extent specified in Section **63G-2-701** or as specified in any other section of this chapter that specifically refers to political subdivisions.
- (b) "Governmental entity" also means every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public's business.
- (c) "Governmental entity" does not include the Utah Educational Savings Plan created in Section **53B-8a-103**.
- (12) "Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

- (13) "Individual" means a human being.
- (14) (a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:
- (i) the date, time, location, and nature of the complaint, the incident, or offense;
 - (ii) names of victims;
 - (iii) the nature or general scope of the agency's initial actions taken in response to the incident;
 - (iv) the general nature of any injuries or estimate of damages sustained in the incident;
 - (v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or
 - (vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.
- (b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection **63G-2-201(3)(b)**.
- (15) "Legislative body" means the Legislature.
- (16) "Notice of compliance" means a statement confirming that a governmental entity has complied with a records committee order.
- (17) "Person" means:
- (a) an individual;
 - (b) a nonprofit or profit corporation;
 - (c) a partnership;
 - (d) a sole proprietorship;
 - (e) other type of business organization; or
 - (f) any combination acting in concert with one another.
- (18) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.
- (19) "Private record" means a record containing data on individuals that is private as provided by Section **63G-2-302**.
- (20) "Protected record" means a record that is classified protected as provided by Section **63G-2-305**.
- (21) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection **63G-2-201(3)(b)**.
- (22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:
- (i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and
 - (ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.
- (b) "Record" does not mean:
- (i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity:
 - (A) in a capacity other than the employee's or officer's governmental capacity; or
 - (B) that is unrelated to the conduct of the public's business;
 - (ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;
 - (iii) material that is legally owned by an individual in the individual's private capacity;
 - (iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;
 - (v) proprietary software;
 - (vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;
 - (vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;
 - (viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working;

(x) a computer program that is developed or purchased by or for any governmental entity for its own use;

(xi) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body charged by law with performing a quasi-judicial function;

(xii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section **63G-2-301**;

(xiii) information provided by the Public Employees' Benefit and Insurance Program, created in Section **49-20-103**, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection **17-50-319(2)(e)(ii)**; or

(xiv) information that an owner of unimproved property provides to a local entity as provided in Section **11-42-205**.

(23) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

(24) "Records committee" means the State Records Committee created in Section **63G-2-501**.

(25) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

(26) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

(27) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

(i) by an institution within the state system of higher education defined in Section **53B-1-102**; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education;

or

(ii) federal, state, or local governmental entity.

(28) "State archives" means the Division of Archives and Records Service created in Section **63A-12-101**.

(29) "State archivist" means the director of the state archives.

(30) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

Amended by Chapter 369, 2012 General Session

Amended by Chapter 377, 2012 General Session

63G-2-202. Access to private, controlled, and protected documents.

(1) Upon request, and except as provided in Subsection (11)(a), a governmental entity shall disclose a private record to:

(a) the subject of the record;

(b) the parent or legal guardian of an unemancipated minor who is the subject of the record;

(c) the legal guardian of a legally incapacitated individual who is the subject of the record;

(d) any other individual who:

(i) has a power of attorney from the subject of the record;

(ii) submits a notarized release from the subject of the record or the individual's legal representative dated no more than 90 days before the date the request is made; or

(iii) if the record is a medical record described in Subsection 63G-2-302(1)(b), is a health care provider, as defined in Section 26-33a-102, if releasing the record or information in the record is consistent with normal professional practice and medical ethics; or

(e) any person to whom the record must be provided pursuant to:

(i) court order as provided in Subsection (7); or

(ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers.

(2) (a) Upon request, a governmental entity shall disclose a controlled record to:

(i) a physician, psychologist, certified social worker, insurance provider or producer, or a government public health agency upon submission of:

(A) a release from the subject of the record that is dated no more than 90 days prior to the date the request is made; and

(B) a signed acknowledgment of the terms of disclosure of controlled information as provided by Subsection (2)(b); and

(ii) any person to whom the record must be disclosed pursuant to:

(A) a court order as provided in Subsection (7); or

(B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers.

(b) A person who receives a record from a governmental entity in accordance with Subsection (2)(a)(i) may not disclose controlled information from that record to any person, including the subject of the record.

(3) If there is more than one subject of a private or controlled record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.

(4) Upon request, and except as provided in Subsection (10) or (11)(b), a governmental entity shall disclose a protected record to:

(a) the person who submitted the record;

(b) any other individual who:

(i) has a power of attorney from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification; or

(ii) submits a notarized release from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification or from their legal representatives dated no more than 90 days prior to the date the request is made;

(c) any person to whom the record must be provided pursuant to:

(i) a court order as provided in Subsection (7); or

(ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers; or

(d) the owner of a mobile home park, subject to the conditions of Subsection 41-1a-116(5).

(5) A governmental entity may disclose a private, controlled, or protected record to another governmental entity, political subdivision, another state, the United States, or a foreign government only as provided by Section 63G-2-206.

(6) Before releasing a private, controlled, or protected record, the governmental entity shall obtain evidence of the requester's identity.

(7) A governmental entity shall disclose a record pursuant to the terms of a court order signed by a judge from a court of competent jurisdiction, provided that:

(a) the record deals with a matter in controversy over which the court has jurisdiction;

(b) the court has considered the merits of the request for access to the record;

(c) the court has considered and, where appropriate, limited the requester's use and further disclosure of the record in order to protect:

(i) privacy interests in the case of private or controlled records;

(ii) business confidentiality interests in the case of records protected under Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and

(iii) privacy interests or the public interest in the case of other protected records;

(d) to the extent the record is properly classified private, controlled, or protected, the interests favoring access, considering limitations thereon, are greater than or equal to the interests favoring restriction of access; and

(e) where access is restricted by a rule, statute, or regulation referred to in Subsection 63G-2-201(3)(b), the court has authority independent of this chapter to order disclosure.

(8) (a) Except as provided in Subsection (8)(d), a governmental entity may disclose or authorize disclosure of private or controlled records for research purposes if the governmental entity:

(i) determines that the research purpose cannot reasonably be accomplished without use or disclosure of the information to the researcher in individually identifiable form;

(ii) determines that:

(A) the proposed research is bona fide; and

(B) the value of the research is greater than or equal to the infringement upon personal privacy;

(iii) (A) requires the researcher to assure the integrity, confidentiality, and security of the records;

and

(B) requires the removal or destruction of the individual identifiers associated with the records as soon as the purpose of the research project has been accomplished;

(iv) prohibits the researcher from:

(A) disclosing the record in individually identifiable form, except as provided in Subsection (8)(b);

or

(B) using the record for purposes other than the research approved by the governmental entity;

and

(v) secures from the researcher a written statement of the researcher's understanding of and agreement to the conditions of this Subsection (8) and the researcher's understanding that violation of the terms of this Subsection (8) may subject the researcher to criminal prosecution under Section 63G-2-801.

(b) A researcher may disclose a record in individually identifiable form if the record is disclosed for the purpose of auditing or evaluating the research program and no subsequent use or disclosure of the record in individually identifiable form will be made by the auditor or evaluator except as provided by this section.

(c) A governmental entity may require indemnification as a condition of permitting research under this Subsection (8).

(d) A governmental entity may not disclose or authorize disclosure of a private record for research purposes as described in this Subsection (8) if the private record is a record described in Subsection 63G-2-302(1)(t).

(9) (a) Under Subsections 63G-2-201(5)(b) and 63G-2-401(6), a governmental entity may disclose to persons other than those specified in this section records that are:

(i) private under Section 63G-2-302; or

(ii) protected under Section 63G-2-305 subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(b) Under Subsection 63G-2-403(11)(b), the records committee may require the disclosure to persons other than those specified in this section of records that are:

(i) private under Section 63G-2-302;

(ii) controlled under Section 63G-2-304; or

(iii) protected under Section 63G-2-305 subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(c) Under Subsection 63G-2-404(8), the court may require the disclosure of records that are private under Section 63G-2-302, controlled under Section 63G-2-304, or protected under Section 63G-2-305 to persons other than those specified in this section.

(10) A record contained in the Management Information System, created in Section 62A-4a-1003, that is found to be unsubstantiated, unsupported, or without merit may not be disclosed to any person except the person who is alleged in the report to be a perpetrator of abuse, neglect, or dependency.

(11) (a) A private record described in Subsection 63G-2-302(2)(g) may only be disclosed as provided in Subsection (1)(e).

(b) A protected record described in Subsection 63G-2-305(43) may only be disclosed as provided in Subsection (4)(c) or Section 62A-3-312.

(12) (a) A private, protected, or controlled record described in Section 62A-16-301 shall be disclosed as required under:

(i) Subsections 62A-16-301(1)(b), (2), and (4)(c); and

(ii) Subsections 62A-16-302(1) and (6).

(b) A record disclosed under Subsection (12)(a) shall retain its character as private, protected, or controlled.

Amended by Chapter 335, 2013 General Session
Amended by Chapter 426, 2013 General Session

63G-2-206. Sharing records.

(1) A governmental entity may provide a record that is private, controlled, or protected to another governmental entity, a government-managed corporation, a political subdivision, the federal government, or another state if the requesting entity:

(a) serves as a repository or archives for purposes of historical preservation, administrative maintenance, or destruction;

(b) enforces, litigates, or investigates civil, criminal, or administrative law, and the record is necessary to a proceeding or investigation;

(c) is authorized by state statute to conduct an audit and the record is needed for that purpose;

(d) is one that collects information for presentence, probationary, or parole purposes; or

(e) (i) is:

(A) the Legislature;

(B) a legislative committee;

(C) a member of the Legislature; or

(D) a legislative staff member acting at the request of the Legislature, a legislative committee, or a member of the Legislature; and

(ii) requests the record in relation to the Legislature's duties including:

(A) the preparation or review of a legislative proposal or legislation;

(B) appropriations; or

(C) an investigation or review conducted by the Legislature or a legislative committee.

(2) (a) A governmental entity may provide a private, controlled, or protected record or record series to another governmental entity, a political subdivision, a government-managed corporation, the federal government, or another state if the requesting entity provides written assurance:

(i) that the record or record series is necessary to the performance of the governmental entity's duties and functions;

(ii) that the record or record series will be used for a purpose similar to the purpose for which the information in the record or record series was collected or obtained; and

(iii) that the use of the record or record series produces a public benefit that is greater than or equal to the individual privacy right that protects the record or record series.

(b) A governmental entity may provide a private, controlled, or protected record or record series to a contractor or a private provider according to the requirements of Subsection (6)(b).

(3) (a) A governmental entity shall provide a private, controlled, or protected record to another governmental entity, a political subdivision, a government-managed corporation, the federal government, or another state if the requesting entity:

(i) is entitled by law to inspect the record;

(ii) is required to inspect the record as a condition of participating in a state or federal program or for receiving state or federal funds; or

(iii) is an entity described in Subsection (1)(a), (b), (c), (d), or (e).

(b) Subsection (3)(a)(iii) applies only if the record is a record described in Subsection **63G-2-305(4)**.

(4) Before disclosing a record or record series under this section to another governmental entity, another state, the United States, a foreign government, or to a contractor or private provider, the originating governmental entity shall:

(a) inform the recipient of the record's classification and the accompanying restrictions on access; and

(b) if the recipient is not a governmental entity to which this chapter applies, obtain the recipient's written agreement which may be by mechanical or electronic transmission that it will abide by those restrictions on access unless a statute, federal regulation, or interstate agreement otherwise governs the sharing of the record or record series.

(5) A governmental entity may disclose a record to another state, the United States, or a foreign government for the reasons listed in Subsections (1) and (2) without complying with the procedures of Subsection (2) or (4) if disclosure is authorized by executive agreement, treaty, federal statute, compact, federal regulation, or state statute.

(6) (a) Subject to Subsections (6)(b) and (c), an entity receiving a record under this section is subject to the same restrictions on disclosure of the record as the originating entity.

(b) A contractor or a private provider may receive information under this section only if:

- (i) the contractor or private provider's use of the record or record series produces a public benefit that is greater than or equal to the individual privacy right that protects the record or record series;
 - (ii) the record or record series it requests:
 - (A) is necessary for the performance of a contract with a governmental entity;
 - (B) will only be used for the performance of the contract with the governmental entity;
 - (C) will not be disclosed to any other person; and
 - (D) will not be used for advertising or solicitation purposes; and
 - (iii) the contractor or private provider gives written assurance to the governmental entity that is providing the record or record series that it will adhere to the restrictions of this Subsection (6)(b).
- (c) The classification of a record already held by a governmental entity and the applicable restrictions on disclosure of that record are not affected by the governmental entity's receipt under this section of a record with a different classification that contains information that is also included in the previously held record.
- (7) Notwithstanding any other provision of this section, if a more specific court rule or order, state statute, federal statute, or federal regulation prohibits or requires sharing information, that rule, order, statute, or federal regulation controls.
- (8) The following records may not be shared under this section:
- (a) records held by the Division of Oil, Gas, and Mining that pertain to any person and that are gathered under authority of Title 40, Chapter 6, Board and Division of Oil, Gas, and Mining;
 - (b) records of publicly funded libraries as described in Subsection **63G-2-302(1)(c)**; and
 - (c) a record described in Section **63G-12-210**.
- (9) Records that may evidence or relate to a violation of law may be disclosed to a government prosecutor, peace officer, or auditor.

Amended by Chapter 377, 2012 General Session

63G-2-302. Private records.

- (1) The following records are private:
 - (a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;
 - (b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;
 - (c) records of publicly funded libraries that when examined alone or with other records identify a patron;
 - (d) records received by or generated by or for:
 - (i) the Independent Legislative Ethics Commission, except for:
 - (A) the commission's summary data report that is required under legislative rule; and
 - (B) any other document that is classified as public under legislative rule; or
 - (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;
 - (e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;
 - (f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:
 - (i) if, prior to the meeting, the chair of the committee determines release of the records:
 - (A) reasonably could be expected to interfere with the investigation undertaken by the committee;
 - or
 - (B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing;
 - and
 - (ii) after the meeting, if the meeting was closed to the public;
 - (g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, Social Security number, insurance coverage, marital status, or payroll deductions;
 - (h) records or parts of records under Section **63G-2-303** that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's Social Security number or federal employer identification number if provided under Section [31A-23a-104](#), [31A-25-202](#), [31A-26-202](#), [58-1-301](#), [58-55-302](#), [61-1-4](#), or [61-2f-203](#);

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) Social Security number, or last four digits of the Social Security number; or

(iii) email address;

(k) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

(l) information provided to the Commissioner of Insurance under:

(i) Subsection [31A-23a-115](#)(2)(a);

(ii) Subsection [31A-23a-302](#)(3); or

(iii) Subsection [31A-26-210](#)(3);

(m) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

(n) information provided by an offender that is:

(i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap Offender Registry; and

(ii) not required to be made available to the public under Subsection [77-41-110](#)(4);

(o) a statement and any supporting documentation filed with the attorney general in accordance with Section [34-45-107](#), if the federal law or action supporting the filing involves homeland security;

(p) electronic toll collection customer account information received or collected under Section [72-6-118](#) and customer information described in Section [17B-2a-815](#) received or collected by a public transit district, including contact and payment information and customer travel data;

(q) an email address provided by a military or overseas voter under Section [20A-16-501](#);

(r) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

(s) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section [11-49-201](#), except for:

(i) the commission's summary data report that is required in Section [11-49-202](#); and

(ii) any other document that is classified as public in accordance with Title 11, Chapter 49, Political Subdivisions Ethics Review Commission; and

(t) a record described in Subsection [53A-11a-203](#)(3) that verifies that a parent was notified of an incident or threat.

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection [63G-2-301](#)(2)(b) or [63G-2-301](#)(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection [63G-2-301](#)(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it; and

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section [62A-3-102](#), that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult.

(3) (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section [63G-2-304](#) when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

Amended by Chapter 216, 2013 General Session

Amended by Chapter 335, 2013 General Session

Amended by Chapter 426, 2013 General Session

(Official State Language)

63G-1-201. Official state language.

(1) English is declared to be the official language of Utah.

(2) As the official language of this State, the English language is the sole language of the government, except as otherwise provided in this section.

(3) Except as provided in Subsection (4), all official documents, transactions, proceedings, meetings, or publications issued, conducted, or regulated by, on behalf of, or representing the state and its political subdivisions shall be in English.

(4) Languages other than English may be used when required:

(a) by the United States Constitution, the Utah State Constitution, federal law, or federal regulation;

(b) by law enforcement or public health and safety needs;

(c) by public and higher education systems according to rules made by the State Board of Education and the State Board of Regents to comply with Subsection (5);

(d) in judicial proceedings, when necessary to insure that justice is served;

(e) to promote and encourage tourism and economic development, including the hosting of international events such as the Olympics;

(f) by libraries to:

(i) collect and promote foreign language materials; and

(ii) provide foreign language services and activities; and

(g) by the Utah Educational Savings Plan established under Title 53B, Chapter 8a, Utah Educational Savings Plan.

(5) The State Board of Education and the State Board of Regents shall make rules governing the use of foreign languages in the public and higher education systems that promote the following principles:

(a) non-English speaking children and adults should become able to read, write, and understand English as quickly as possible;

(b) foreign language instruction should be encouraged;

(c) formal and informal programs in English as a Second Language should be initiated, continued, and expanded; and

(d) public schools should establish communication with non-English speaking parents of children within their systems, using a means designed to maximize understanding when necessary, while encouraging those parents who do not speak English to become more proficient in English.

(6) Unless exempted by Subsection (4), all state funds appropriated or designated for the printing or translation of materials or the provision of services or information in a language other than English shall be returned to the General Fund.

(a) Each state agency that has state funds appropriated or designated for the printing or translation of materials or the provision of services or information in a language other than English shall:

- (i) notify the Division of Finance that the money exists and the amount of the money; and
- (ii) return the money to the Division of Finance.

(b) The Division of Finance shall account for the money and inform the Legislature of the existence and amount of the money at the beginning of the Legislature's annual general session.

(c) The Legislature may appropriate any money received under this section to the State School Board for use in English as a Second Language programs.

(7) Nothing in this section affects the ability of government employees, private businesses, nonprofit organizations, or private individuals to exercise their rights under:

- (a) the First Amendment of the United States Constitution; and
- (b) Utah Constitution, Article 1, Sections 1 and 15.

(8) If any provision of this section, or the application of any such provision to any person or circumstance, is held invalid, the remainder of this act shall be given effect without the invalid provision or application.

Amended by Chapter 46, 2011 General Session

Amended by Chapter 342, 2011 General Session

(Governmental Immunity)

63G-7-102. Definitions.

As used in this chapter:

(1) "Claim" means any asserted demand for or cause of action for money or damages, whether arising under the common law, under state constitutional provisions, or under state statutes, against a governmental entity or against an employee in the employee's personal capacity.

(2) (a) "Employee" includes:

- (i) a governmental entity's officers, employees, servants, trustees, or commissioners;
- (ii) members of a governing body;
- (iii) members of a government entity board;
- (iv) members of a government entity commission;
- (v) members of an advisory body, officers, and employees of a Children's Justice Center created in accordance with Section **67-5b-104**;
- (vi) student teachers holding a letter of authorization in accordance with Sections **53A-6-103** and **53A-6-104**;
- (vii) educational aides;
- (viii) students engaged in providing services to members of the public in the course of an approved medical, nursing, or other professional health care clinical training program;
- (ix) volunteers as defined by Subsection **67-20-2(3)**; and
- (x) tutors.

(b) "Employee" includes all of the positions identified in Subsection (2)(a), whether or not the individual holding that position receives compensation.

(c) "Employee" does not include an independent contractor.

(3) "Governmental entity" means the state and its political subdivisions as both are defined in this section.

(4) (a) "Governmental function" means each activity, undertaking, or operation of a governmental entity.

(b) "Governmental function" includes each activity, undertaking, or operation performed by a department, agency, employee, agent, or officer of a governmental entity.

(c) "Governmental function" includes a governmental entity's failure to act.

(5) "Injury" means death, injury to a person, damage to or loss of property, or any other injury that a person may suffer to the person or estate, that would be actionable if inflicted by a private person or the private person's agent.

(6) "Personal injury" means an injury of any kind other than property damage.

(7) "Political subdivision" means any county, city, town, school district, community development and

renewal agency, special improvement or taxing district, local district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(8) "Property damage" means injury to, or loss of, any right, title, estate, or interest in real or personal property.

(9) "State" means the state of Utah, and includes each office, department, division, agency, authority, commission, board, institution, hospital, college, university, Children's Justice Center, or other instrumentality of the state.

(10) "Willful misconduct" means the intentional doing of a wrongful act, or the wrongful failure to act, without just cause or excuse, where the actor is aware that the actor's conduct will probably result in injury.

Renumbered and Amended by Chapter 382, 2008 General Session

63G-7-201. Immunity of governmental entities from suit.

(1) Except as may be otherwise provided in this chapter, each governmental entity and each employee of a governmental entity are immune from suit for any injury that results from the exercise of a governmental function.

(2) Notwithstanding the waiver of immunity provisions of Section **63G-7-301**, a governmental entity, its officers, and its employees are immune from suit for any injury or damage resulting from the implementation of or the failure to implement measures to:

(a) control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;

(b) investigate and control suspected bioterrorism and disease as set out in Title 26, Chapter 23b, Detection of Public Health Emergencies Act;

(c) respond to a national, state, or local emergency, a public health emergency as defined in Section **26-23b-102**, or a declaration by the President of the United States or other federal official requesting public health related activities; and

(d) adopt methods or measures, in accordance with Section **26-1-30**, for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals they serve.

Amended by Chapter 24, 2012 General Session

(State Capitol Preservation Board)

63C-9-301. Board powers -- Subcommittees.

(1) The board shall:

(a) except as provided in Subsection (2), exercise complete jurisdiction and stewardship over capitol hill 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 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 Management and Budget; and

(ii) the Legislature's appropriations subcommittee responsible for capitol hill facilities, through the Office of 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, after consultation with the:
 - (i) Division of Facilities Construction and Management;
 - (ii) State Library Division;
 - (iii) Division of Archives and Records Service;
 - (iv) Division of State History;
 - (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;
 - (ii) State Library Division;
 - (iii) Division of Archives and Records Service;
 - (iv) Division of State History;
 - (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 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.
- (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) (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 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (b) A person who violates a rule adopted by the board under the authority of this Subsection (3) 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 the state.
- (c) The board may take any other legal action allowed by law.
- (d) If any violation of a rule adopted by the board is also an offense under Title 76, Utah Criminal Code, the violation is subject to the civil penalty, damages, expenses, and costs allowed under this Subsection (3) in addition to any criminal prosecution.
- (e) 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.
- (f) 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) 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) (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 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:

(A) Division of Facilities Construction and Management;

(B) State Library Division;

(C) Division of Archives and Records Service;

(D) Division of State History;

(E) Office of Museum Services; and

(F) Arts Council.

(b) The board's provision of wireless Internet service under Subsection (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 Legislative Fiscal Analyst; and

(ii) the executive director of the Governor's Office of Management and Budget, or the executive director's designee, who shall be from the Governor's Office of Management 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.

(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 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 (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.

Amended by Chapter 310, 2013 General Session
Amended by Chapter 310, 2013 General Session

63C-9-601. 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, State Library Division, the Division of Archives and Records Service, the Division of State History, the Office of Museum Services, the Utah Arts Council, the Division of Arts and Museums, the Alice Art Collection Committee, or any other state agency.

Amended by Chapter 24, 2006 General Session

(Code of Ethics)- excerpts

67-16-3 (Effective 09/01/12). Definitions.

As used in this chapter:

(1) "Agency" means any department, division, agency, commission, board, council, committee, authority, or any other institution of the state or any of its political subdivisions.

(2) "Agency head" means the chief executive or administrative officer of any agency.

(3) "Assist" means to act, or offer or agree to act, in such a way as to help, represent, aid, advise, furnish information to, or otherwise provide assistance to a person or business entity, believing that such action is of help, aid, advice, or assistance to such person or business entity and with the intent to assist such person or business entity.

(4) "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.

(5) "Compensation" means anything of economic value, however designated, which is paid, loaned, granted, given, donated, or transferred to any person or business entity by anyone other than the governmental employer for or in consideration of personal services, materials, property, or any other thing whatsoever.

(6) "Controlled, private, or protected information" means information classified as controlled, private, or protected in Title 63G, Chapter 2, Government Records Access and Management Act, or other applicable provision of law.

(7) "Governmental action" means any action on the part of the state, a political subdivision, or an agency, including:

(a) any decision, determination, finding, ruling, or order; and

(b) any grant, payment, award, license, contract, subcontract, transaction, decision, sanction, or approval, or the denial thereof, or the failure to act in respect to.

(8) "Improper disclosure" means disclosure of controlled, private, or protected information to any person who does not have the right to receive the information.

(9) "Legislative employee" means any officer or employee of the Legislature, or any committee of the Legislature, who is appointed or employed to serve, either with or without compensation, for an aggregate of less than 800 hours during any period of 365 days. "Legislative employee" does not include legislators.

(10) "Legislator" means a member or member-elect of either house of the Legislature of the state of Utah.

(11) "Political subdivision" means a district, school district, or any other political subdivision of the state that is not an agency, but does not include a municipality or a county.

(12) "Public employee" means a person who is not a public officer who is employed on a full-time, part-time, or contract basis by the state or any of its political subdivisions. "Public employee" does not include legislators or legislative employees.

(13) "Public officer" means all elected or appointed officers of the state or any of its political subdivisions who occupy policymaking posts. "Public officer" does not include legislators or legislative employees.

(14) "State" means the state of Utah.

(15) "Substantial interest" means the ownership, either legally or equitably, by an individual, the individual's spouse, or the individual's minor children, of at least 10% of the outstanding capital stock of a corporation or a 10% interest in any other business entity.

Amended by Chapter 202, 2012 General Session

67-16-4. Improperly disclosing or using private, controlled, or protected information -- Using position to secure privileges or exemptions -- Accepting employment which would impair independence of judgment or ethical performance -- Exception.

(1) Except as provided in Subsection (3), it is an offense for a public officer, public employee, or legislator to:

(a) accept employment or engage in any business or professional activity that he might reasonably expect would require or induce him to improperly disclose controlled information that he has gained by reason of his official position;

(b) disclose or improperly use controlled, private, or protected information acquired by reason of his official position or in the course of official duties in order to further substantially the officer's or employee's personal economic interest or to secure special privileges or exemptions for himself or others;

(c) use or attempt to use his official position to:

(i) further substantially the officer's or employee's personal economic interest; or

(ii) secure special privileges or exemptions for himself or others;

(d) accept other employment that he might expect would impair his independence of judgment in the performance of his public duties; or

(e) accept other employment that he might expect would interfere with the ethical performance of his public duties.

(2) (a) Subsection (1) does not apply to the provision of education-related services to public school students by public education employees acting outside their regular employment.

(b) The conduct referred to in Subsection (2)(a) is subject to Section [53A-1-402.5](#).

(3) This section does not apply to a public officer, public employee, or legislator who engages in conduct that constitutes a violation of this section to the extent that the public officer, public employee, or legislator is chargeable, for the same conduct, under Section [63G-6a-2304.5](#) or Section [76-8-105](#).

Amended by Chapter 445, 2013 General Session

67-16-5. Accepting gift, compensation, or loan -- When prohibited.

(1) As used in this section, "economic benefit tantamount to a gift" includes:

(a) a loan at an interest rate that is substantially lower than the commercial rate then currently prevalent for similar loans; and

(b) compensation received for private services rendered at a rate substantially exceeding the fair market value of the services.

(2) Except as provided in Subsection (4), it is an offense for a public officer or public employee to knowingly receive, accept, take, seek, or solicit, directly or indirectly for himself or another a gift of substantial value or a substantial economic benefit tantamount to a gift:

(a) that would tend improperly to influence a reasonable person in the person's position to depart from the faithful and impartial discharge of the person's public duties;

(b) that the public officer or public employee knows or that a reasonable person in that position should know under the circumstances is primarily for the purpose of rewarding the public officer or public employee for official action taken; or

(c) if the public officer or public employee recently has been, is now, or in the near future may be involved in any governmental action directly affecting the donor or lender, unless a disclosure of the gift, compensation, or loan and other relevant information has been made in the manner provided in Section [67-16-6](#).

(3) Subsection (2) does not apply to:

(a) an occasional nonpecuniary gift, having a value of not in excess of \$50;

(b) an award publicly presented in recognition of public services;

(c) any bona fide loan made in the ordinary course of business; or

(d) a political campaign contribution.

(4) This section does not apply to a public officer or public employee who engages in conduct that constitutes a violation of this section to the extent that the public officer or public employee is chargeable, for the same conduct, under Section [63G-6a-2304.5](#) or Section [76-8-105](#).

Amended by Chapter 445, 2013 General Session

67-16-5.3. Requiring donation, payment, or service to government agency in exchange for approval -- When prohibited.

(1) Except as provided in Subsection (3), it is an offense for a public officer, public employee, or legislator to demand from any person as a condition of granting any application or request for a permit, approval, or other authorization, that the person donate personal property, money, or services to any agency.

(2) (a) Subsection (1) does not apply to any donation of property, funds, or services to an agency that is:

(i) expressly required by statute, ordinance, or agency rule;

(ii) mutually agreed to between the applicant and the entity issuing the permit, approval, or other authorization;

(iii) made voluntarily by the applicant; or

(iv) a condition of a consent decree, settlement agreement, or other binding instrument entered into to resolve, in whole or in part, an actual or threatened agency enforcement action.

(b) If a person donates property, funds, or services to an agency, the agency shall, as part of the permit or other written authorization:

(i) identify that a donation has been made;

(ii) describe the donation;

(iii) certify, in writing, that the donation was voluntary; and

(iv) place that information in its files.

(3) This section does not apply to a public officer, public employee, or legislator who engages in conduct that constitutes a violation of this section to the extent that the public officer, public employee, or legislator is chargeable, for the same conduct, under Section [63G-6a-2304.5](#) or Section [76-8-105](#).

Amended by Chapter 445, 2013 General Session

67-16-5.6. Offering donation, payment, or service to government agency in exchange for approval -- When prohibited.

(1) Except as provided in Subsection (3), it is an offense for any person to donate or offer to donate personal property, money, or services to any agency on the condition that the agency or any other agency approve any application or request for a permit, approval, or other authorization.

(2) (a) Subsection (1) does not apply to any donation of property, funds, or services to an agency that is:

(i) otherwise expressly required by statute, ordinance, or agency rule;

(ii) mutually agreed to between the applicant and the entity issuing the permit, approval, or other authorization;

(iii) a condition of a consent decree, settlement agreement, or other binding instrument entered into to resolve, in whole or in part, an actual or threatened agency enforcement action; or

(iv) made without condition.

(b) The person making the donation of property, funds, or services shall include with the donation a signed written statement certifying that the donation is made without condition.

(c) The agency receiving the donation shall place the signed written statement in its files.

(3) This section does not apply to a person who engages in conduct that constitutes a violation of this section to the extent that the person is chargeable, for the same conduct, under Section [63G-6a-2304.5](#) or Section [76-8-105](#).

Amended by Chapter 445, 2013 General Session

67-16-9. Conflict of interests prohibited.

No public officer or public employee shall have personal investments in any business entity which will create a substantial conflict between his private interests and his public duties.

Enacted by Chapter 128, 1969 General Session

(Theft from Libraries)

76-6-801. Acts constituting library theft.

A person is guilty of the crime of library theft when he willfully, for the purpose of converting to personal use, and depriving the owner, conceals on his person or among his belongings library materials while on the premises of the library or willfully and without authority removes library materials from the library building with the intention of converting them to his own use.

Amended by Chapter 245, 1987 General Session

76-6-802. Presumption of intent.

A person who willfully conceals library materials on his person or among his belongings while on the premises of the library or in its immediate vicinity is prima facie presumed to have concealed library materials with the intention of converting them to his own use. If library materials are found concealed upon his person or among his belongings, or electronic security devices are activated by the person's presence, it is prima facie evidence of willful concealment.

Amended by Chapter 245, 1987 General Session

76-6-803. Mutilation or damaging of library material as library theft.

A person is guilty of the crime of library theft when he intentionally or recklessly writes upon, injures, defaces, tears, cuts, mutilates, destroys, or otherwise damages library materials. **Amended by Chapter 245, 1987 General Session**

76-6-803.30. Failure to return library material as library theft -- Notice -- Failure to pay replacement value -- Written notice.

(1) A person is guilty of library theft when, having possession or having been in possession of library materials, he:

(a) fails to return the materials within 30 days after receiving written notice demanding return of the materials; or

(b) if the materials are lost or destroyed, fails to pay the replacement value of the materials within 30 days after being notified.

(2) Written notice is considered received upon the sworn affidavit of the person delivering the notice with a statement as to the date, place, and manner of delivery, or upon proof that the notice was mailed postage prepaid, via the United States Postal Service, to the current address listed for the person in the library records.

Enacted by Chapter 245, 1987 General Session

76-6-803.60. Detention of theft suspect by library employee -- Purposes.

(1) Any employee of the library who has probable cause to believe that a person has committed library theft may detain the person, on or off the premises of a library, in a reasonable manner and for a reasonable length of time for all or any of the following purposes:

(a) to make reasonable inquiry as to whether the person has in his possession concealed library materials;

(b) to request identification;

(c) to verify identification;

(d) to make a reasonable request of the person to place or keep in full view any library materials the individual may have removed, or which the employee has reason to believe he may have removed, from its place of display or elsewhere, whether for examination, or for any other reasonable purpose;

(e) to inform a peace officer of the detention of the person and surrender that person to the custody of a peace officer; or

(f) in the case of a minor, to inform a peace officer, the parents, guardian, or other private person interested in the welfare of the minor as soon as possible of this detention and to surrender custody of the minor to this person.

(2) An employee may make a detention under this section off the library premises only if the detention is pursuant to an immediate pursuit of the person.

Enacted by Chapter 245, 1987 General Session

76-6-803.90. Liability -- Defense -- Probable cause -- Reasonableness.

In any action for false arrest, false imprisonment, unlawful detention, defamation of character, assault,

trespass, or invasion of civil rights brought by any person detained by an employee of the library, it is a defense to the action that the employee of the library detaining the person had probable cause to believe that the person had committed library theft and that the employee acted reasonably under all circumstances.

Enacted by Chapter 245, 1987 General Session

76-6-804. "Book or other library materials" defined.

The terms "book or other library materials" as used in this act include any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microfilm, sound recording, audiovisual materials in any format, electronic data processing records, artifacts, or other documentary, written or printed materials regardless of physical form or characteristics, belonging to, on loan to, or otherwise in the custody of the following:

- (1) any public library;
- (2) any library of an educational or historical society;
- (3) any museum; or
- (4) any repository of public records.

Enacted by Chapter 168, 1981 General Session

(Criminal Code)

76-10-501. Definitions.

As used in this part:

(1) (a) "Antique firearm" means:

(i) any firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898; or

(ii) a firearm that is a replica of any firearm described in this Subsection (1)(a), if the replica:

(A) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

(B) uses rimfire or centerfire fixed ammunition which is:

(I) no longer manufactured in the United States; and

(II) is not readily available in ordinary channels of commercial trade; or

(iii) (A) that is a muzzle loading rifle, shotgun, or pistol; and

(B) is designed to use black powder, or a black powder substitute, and cannot use fixed ammunition.

(b) "Antique firearm" does not include:

(i) a weapon that incorporates a firearm frame or receiver;

(ii) a firearm that is converted into a muzzle loading weapon; or

(iii) a muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing

the:

(A) barrel;

(B) bolt;

(C) breechblock; or

(D) any combination of Subsection (1)(b)(iii)(A), (B), or (C).

(2) "Bureau" means the Bureau of Criminal Identification created in Section [53-10-201](#) within the Department of Public Safety.

(3) (a) "Concealed dangerous weapon" means a dangerous weapon that is:

(i) covered, hidden, or secreted in a manner that the public would not be aware of its presence;

and

(ii) readily accessible for immediate use.

(b) A dangerous weapon is not a concealed dangerous weapon if it is a firearm which is unloaded and is securely encased.

(4) "Criminal history background check" means a criminal background check conducted by a licensed firearms dealer on every purchaser of a handgun, except a Federal Firearms Licensee, through the bureau or the local law enforcement agency where the firearms dealer conducts business.

(5) "Curio or relic firearm" means a firearm that:

- (a) is of special interest to a collector because of a quality that is not associated with firearms intended for:
- (i) sporting use;
 - (ii) use as an offensive weapon; or
 - (iii) use as a defensive weapon;
- (b) (i) was manufactured at least 50 years before the current date; and
- (ii) is not a replica of a firearm described in Subsection (5)(b)(i);
- (c) is certified by the curator of a municipal, state, or federal museum that exhibits firearms to be a curio or relic of museum interest;
- (d) derives a substantial part of its monetary value:
- (i) from the fact that the firearm is:
 - (A) novel;
 - (B) rare; or
 - (C) bizarre; or
 - (ii) because of the firearm's association with an historical:
 - (A) figure;
 - (B) period; or
 - (C) event; and
- (e) has been designated as a curio or relic firearm by the director of the United States Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R. Sec. 478.11.
- (6) (a) "Dangerous weapon" means an item that in the manner of its use or intended use is capable of causing death or serious bodily injury.
- (b) The following factors shall be used in determining whether a knife, or another item, object, or thing not commonly known as a dangerous weapon is a dangerous weapon:
- (i) the character of the instrument, object, or thing;
 - (ii) the character of the wound produced, if any;
 - (iii) the manner in which the instrument, object, or thing was used; and
 - (iv) the other lawful purposes for which the instrument, object, or thing may be used.
- (c) "Dangerous weapon" does not include an explosive, chemical, or incendiary device as defined by Section 76-10-306.
- (7) "Dealer" means a person who is:
- (a) licensed under 18 U.S.C. Sec. 923; and
 - (b) engaged in the business of selling, leasing, or otherwise transferring a handgun, whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.
- (8) "Enter" means intrusion of the entire body.
- (9) "Federal Firearms Licensee" means a person who:
- (a) holds a valid Federal Firearms License issued under 18 U.S.C. Sec. 923; and
 - (b) is engaged in the activities authorized by the specific category of license held.
- (10) (a) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.
- (b) As used in Sections 76-10-526 and 76-10-527, "firearm" does not include an antique firearm.
- (11) "Firearms transaction record form" means a form created by the bureau to be completed by a person purchasing, selling, or transferring a handgun from a dealer in the state.
- (12) "Fully automatic weapon" means a firearm which fires, is designed to fire, or can be readily restored to fire, automatically more than one shot without manual reloading by a single function of the trigger.
- (13) (a) "Handgun" means a pistol, revolver, or other firearm of any description, loaded or unloaded, from which a shot, bullet, or other missile can be discharged, the length of which, not including any revolving, detachable, or magazine breech, does not exceed 12 inches.
- (b) As used in Sections 76-10-520, 76-10-521, and 76-10-522, "handgun" and "pistol or revolver" do not include an antique firearm.
- (14) "House of worship" means a church, temple, synagogue, mosque, or other building set apart primarily for the purpose of worship in which religious services are held and the main body of which is kept for that use and not put to any other use inconsistent with its primary purpose.
- (15) "Prohibited area" means a place where it is unlawful to discharge a firearm.

(16) "Readily accessible for immediate use" means that a firearm or other dangerous weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as readily as if carried on the person.

(17) "Residence" means an improvement to real property used or occupied as a primary or secondary residence.

(18) "Securely encased" means not readily accessible for immediate use, such as held in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other storage area of a motor vehicle, not including a glove box or console box.

(19) "Short barreled shotgun" or "short barreled rifle" means a shotgun having a barrel or barrels of fewer than 18 inches in length, or in the case of a rifle, having a barrel or barrels of fewer than 16 inches in length, or a dangerous weapon made from a rifle or shotgun by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.

(20) "State entity" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(21) "Violent felony" has the same meaning as defined in Section [76-3-203.5](#).

Amended by Chapter 278, 2013 General Session

Amended by Chapter 301, 2013 General Session

(Blinder Racks)

76-10-1201. Definitions.

For the purpose of this part:

(1) "Blinder rack" means an opaque cover that covers the lower 2/3 of a material so that the lower 2/3 of the material is concealed from view.

(2) "Contemporary community standards" means those current standards in the vicinage where an offense alleged under this part has occurred, is occurring, or will occur.

(3) "Distribute" means to transfer possession of materials whether with or without consideration.

(4) "Exhibit" means to show.

(5) (a) "Harmful to minors" means that quality of any description or representation, in whatsoever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when it:

(i) taken as a whole, appeals to the prurient interest in sex of minors;

(ii) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

(iii) taken as a whole, does not have serious value for minors.

(b) Serious value includes only serious literary, artistic, political or scientific value for minors.

(6) (a) "Knowingly," regarding material or a performance, means an awareness, whether actual or constructive, of the character of the material or performance.

(b) As used in this Subsection (6), a person has constructive knowledge if a reasonable inspection or observation under the circumstances would have disclosed the nature of the subject matter and if a failure to inspect or observe is either for the purpose of avoiding the disclosure or is criminally negligent as described in Section [76-2-103](#).

(7) "Material" means anything printed or written or any picture, drawing, photograph, motion picture, or pictorial representation, or any statue or other figure, or any recording or transcription, or any mechanical, chemical, or electrical reproduction, or anything which is or may be used as a means of communication. Material includes undeveloped photographs, molds, printing plates, and other latent representational objects.

(8) "Minor" means any person less than 18 years of age.

(9) "Negligently" means simple negligence, the failure to exercise that degree of care that a reasonable and prudent person would exercise under like or similar circumstances.

(10) "Nudity" means:

(a) the showing of the human male or female genitals, pubic area, or buttocks, with less than an opaque covering;

(b) the showing of a female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or

(c) the depiction of covered male genitals in a discernibly turgid state.

(11) "Performance" means any physical human bodily activity, whether engaged in alone or with other persons, including singing, speaking, dancing, acting, simulating, or pantomiming.

(12) "Public place" includes a place to which admission is gained by payment of a membership or admission fee, however designated, notwithstanding its being designated a private club or by words of like import.

(13) "Sadomasochistic abuse" means:

(a) flagellation or torture by or upon a person who is nude or clad in undergarments, a mask, or in a revealing or bizarre costume; or

(b) the condition of being fettered, bound, or otherwise physically restrained on the part of a person clothed as described in Subsection (13)(a).

(14) "Sexual conduct" means acts of masturbation, sexual intercourse, or any touching of a person's clothed or unclothed genitals, pubic area, buttocks, or, if the person is a female, breast, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent or actual sexual stimulation or gratification.

(15) "Sexual excitement" means a condition of human male or female genitals when in a state of sexual stimulation or arousal, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

Amended by Chapter 278, 2013 General Session

76-10-1208. Affirmative defenses.

(1) It is an affirmative defense to prosecution under this part that the distribution of pornographic material is restricted to institutions or persons having scientific, educational, governmental, or other similar justification for possessing pornographic material.

(2) It is not a defense to prosecution under this part that the actor is a motion picture projectionist, usher, ticket-taker, bookstore employee, or otherwise is required to violate this part incident to the person's employment.

(3) It is an affirmative defense to prosecution under Section **76-10-1206**, **76-10-1227**, or **76-10-1228** for displaying or exhibiting an outer portion of material, that the material is:

(a) in a sealed opaque wrapper that covers at least the lower 2/3 of the material so that the lower 2/3 of the material is concealed from view;

(b) placed behind a blinder rack; or

(c) displayed in an area from which a minor is physically excluded if the material cannot be viewed by the minor from an area in which a minor is allowed.

Amended by Chapter 123, 2007 General Session

76-10-1210. Relation to other laws.

(1) (a) It is not the intent of this part to prescribe or limit the regulation of pornographic materials or materials harmful to minors, and counties, cities, and other political subdivisions are specifically given the right to further regulate the materials.

(b) Without limitation, a political subdivision may further regulate materials by ordinances relating to:

(i) zoning;

(ii) licensing;

(iii) public nuisances;

(iv) a specific type of business such as adult bookstores or drive-in movies; or

(v) use of blinder racks.

(2) It is not the intent of this part to preclude the application of other laws of this state to pornographic materials or materials harmful to minors. Specifically, without limitation, this part is not in derogation of Sections **76-10-803** and **76-10-806**.

(3) The commission of a crime under this part shall be considered to offend public decency under Section **76-10-803**. It is the intent of this part to give the broadest meaning permissible under the federal and state constitutions to the words "offends public decency" in Section **76-10-803**.

Amended by Chapter 123, 2007 General Session

(Indecent Public Displays)

76-10-1227. Indecent public displays -- Definitions.

(1) For purposes of this section and Section **76-10-1228**:

(a) "Description or depiction of illicit sex or sexual immorality" means:

- (i) human genitals in a state of sexual stimulation or arousal;
- (ii) acts of human masturbation, sexual intercourse, or sodomy;
- (iii) fondling or other erotic touching of human genitals or pubic region; or
- (iv) fondling or other erotic touching of the human buttock or female breast.

(b) "Nude or partially denuded figure" means:

(i) less than completely and opaquely covering human:

(A) genitals;

(B) pubic regions;

(C) buttock; and

(D) female breast below a point immediately above the top of the areola; and

(ii) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(2) (a) Subject to Subsection (2)(c), this section and Section **76-10-1228** do not apply to any material which, when taken as a whole, has serious value for minors.

(b) As used in Subsection (2)(a), "serious value" means having serious literary, artistic, political, or scientific value for minors, taking into consideration the ages of all minors who could be exposed to the material.

(c) A description or depiction of illicit sex or sexual immorality as defined in Subsection (1)(a)(i), (ii), or (iii) has no serious value for minors.

Amended by Chapter 123, 2007 General Session

76-10-1228. Indecent public displays -- Prohibitions -- Penalty.

(1) Subject to the affirmative defense in Subsection **76-10-1208**(3), a person is guilty of a class A misdemeanor who willfully or knowingly:

(a) engages in the business of selling, lending, giving away, showing, advertising for sale, or distributing to a minor or has in the person's possession with intent to engage in that business or to otherwise offer for sale or commercial distribution to a minor any material with:

(i) a description or depiction of illicit sex or sexual immorality; or

(ii) a nude or partially denuded figure; or

(b) publicly displays at newsstands or any other establishment frequented by minors, or where the minors are or may be invited as a part of the general public, any motion picture, or any live, taped, or recorded performance, or any still picture or photograph, or any book, pocket book, pamphlet, or magazine the cover or content of which:

(i) exploits, is devoted to, or is principally made up of one or more descriptions or depictions of illicit sex or sexual immorality; or

(ii) consists of one or more pictures of nude or partially denuded figures.

(2) (a) A violation of this section is punishable by:

(i) a minimum mandatory fine of not less than \$500; and

(ii) incarceration, without suspension of sentence in any way, for a term of not less than 30 days.

(b) This section supersedes Section **77-18-1**.

Amended by Chapter 123, 2007 General Session

(Pornographic Films)

76-10-1226. Exemptions from application of film distribution act.

This part does not apply to any film:

(1) distributed to or exhibited by any accredited university, college, school, library, or other educational institution, church, or museum, if there is scientific, religious, or educational justification for the exhibition of the film; or

(2) exhibited by the Department of Corrections or exhibited as part of any treatment program operated by or under contract with the department if the exhibition of the film is solely for the assessment or treatment of an offender as defined under Section **64-13-1**.

Amended by Chapter 138, 1990 General Session

(Detaining Thieves)

77-7-12. Detaining persons suspected of shoplifting or library theft -- Persons authorized.

(1) A peace officer, merchant, or merchant's employee, servant, or agent who has reasonable grounds to believe that goods held or displayed for sale by the merchant have been taken by a person with intent to steal may, for the purpose of investigating the unlawful act and attempting to effect a recovery of the goods, detain the person in a reasonable manner for a reasonable length of time.

(2) A peace officer or employee of a library may detain a person for the purposes and under the limits of Subsection (1) if there are reasonable grounds to believe the person violated Title 76, Chapter 6, Part 8, Library Theft.

Amended by Chapter 245, 1987 General Session

77-7-13. Arrest without warrant by peace officer -- Reasonable grounds, what constitutes -- Exemption from civil or criminal liability.

(1) A peace officer may arrest, without warrant, any person the officer has reasonable ground to believe has committed a theft under Title 76, Chapter 6, Part 8, Library Theft, or of goods held or displayed for sale.

(2) A charge of theft made to a peace officer under Part 8, Library Theft, by an employee of a library, or by a merchant, merchant's employee, servant, or agent constitutes a reasonable ground for arrest, and the peace officer is relieved from any civil or criminal liability.

Amended by Chapter 282, 1998 General Session

77-7-14. Person causing detention or arrest of person suspected of shoplifting or library theft -- Civil and criminal immunity.

(1) A peace officer, merchant, or merchant's employee, servant, or agent who causes the detention of a person as provided in Section **77-7-12**, or who causes the arrest of a person for theft of goods held or displayed for sale, is not criminally or civilly liable where he has reasonable and probable cause to believe the person detained or arrested committed a theft of goods held or displayed for sale.

(2) A peace officer or employee of a library who causes a detention or arrest of a person under Title 76, Chapter 6, Part 8, Library Theft, is not criminally or civilly liable where he has reasonable and probable cause to believe that the person committed a theft of library materials.

Amended by Chapter 245, 1987 General Session

(County Law Libraries)

78A-5-111. Transfer of court operating responsibilities -- Facilities -- Staff -- Budget.

(1) A county's determination to transfer responsibility for operation of the district court to the state is irrevocable.

(2) (a) Court space suitable for the conduct of judicial business as specified by the Judicial Council shall be provided by the state from appropriations made by the Legislature for these purposes.

(b) The state may, in order to carry out its obligation to provide these facilities, lease space from a county, or reimburse a county for the number of square feet used by the district. Any lease and reimbursement shall be determined in accordance with the standards of the State Building Board applicable to state agencies generally. A county or municipality terminating a lease with the court shall provide written notice to the Judicial Council at least one year prior to the effective date of the termination.

(c) District courts shall be located in municipalities that are sites for the district court or circuit court as of January 1, 1994. Removal of the district court from the municipality shall require prior legislative approval by joint resolution.

(3) The state shall provide legal reference materials for all district judges' chambers and courtrooms,

as required by Judicial Council rule. Maintenance of county law libraries shall be in consultation with the court executive of the district court.

(4) (a) At the request of the Judicial Council, the county or municipality shall provide staff for the district court in county seats or municipalities under contract with the administrative office of the courts.

(b) Payment for necessary expenses shall be by a contract entered into annually between the state and the county or municipality, which shall specifically state the agreed costs of personnel, supplies, and services, as well as the method and terms of payment.

(c) Workload measures prepared by the state court administrator and projected costs for the next fiscal year shall be considered in the negotiation of contracts.

(d) Each May 1 preceding the general session of the Legislature, the county or municipality shall submit a budget request to the Judicial Council, the governor, and the legislative fiscal analyst for services to be rendered as part of the contract under Subsection (4)(b) for the fiscal year immediately following the legislative session. The Judicial Council shall consider this information in developing its budget request. The legislative fiscal analyst shall provide the Legislature with the county's or municipality's original estimate of expenses. By June 15 preceding the state's fiscal year, the county and the state court administrator shall negotiate a contract to cover expenses in accordance with the appropriation approved by the Legislature. The contracts may not include payments for expenses of service of process, indigent defense costs, or other costs or expenses provided by law as an obligation of the county or municipality.

Renumbered and Amended by Chapter 3, 2008 General Session