

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed May 02, 2020, 12:00 a.m. through May 15, 2020, 11:59 p.m.

Number 2020-11
June 01, 2020

Nancy L. Lancaster, Managing Editor

The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah state government. The Office of Administrative Rules, part of the Department of Administrative Services, produces the *Bulletin* under authority of Section 63G-3-402.

The Portable Document Format (PDF) version of the *Bulletin* is the official version. The PDF version of this issue is available at <https://rules.utah.gov/>. Any discrepancy between the PDF version and other versions will be resolved in favor of the PDF version.

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-957-7110. Additional rulemaking information and electronic versions of all administrative rule publications are available at <https://rules.utah.gov/>.

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)* of the same volume and issue number. The *Digest* is available by e-mail subscription or online. Visit <https://rules.utah.gov/> for additional information.

Office of Administrative Rules, Salt Lake City 84114

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Utah state bulletin.

Semimonthly.

1. Delegated legislation--Utah--Periodicals. 2. Administrative procedure--Utah--Periodicals.
- I. Utah. Office of Administrative Rules.

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348.792'025--DDC

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EXECUTIVE DOCUMENTS

Under authority granted by the Utah Constitution and various federal and state statutes, the Governor periodically issues **EXECUTIVE DOCUMENTS**, which can be categorized as either Executive Orders, Proclamations, and Declarations. Executive Orders set policy for the executive branch; create boards and commissions; provide for the transfer of authority; or otherwise interpret, implement, or give administrative effect to a provision of the Constitution, state law or executive policy. Proclamations call special or extraordinary legislative sessions; designate classes of cities; publish states-of-emergency; promulgate other official formal public announcements or functions; or publicly avow or cause certain matters of state government to be made generally known. Declarations designate special days, weeks or other time periods; call attention to or recognize people, groups, organizations, functions, or similar actions having a public purpose; or invoke specific legislative purposes (such as the declaration of an agricultural disaster).

The Governor's Office staff files **EXECUTIVE DOCUMENTS** that have legal effect with the Office of Administrative Rules for publication and distribution.

PROCLAMATION

WHEREAS, since the close of the 2020 General Session of the 63rd Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

WHEREAS, Article VII, Section 6 of the Constitution of the State of Utah provides that the Governor may, by proclamation, convene the Senate into Extraordinary Session; and

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and Laws of the State of Utah, do by this Proclamation call the Senate only of the 63rd Legislature of the State of Utah into the Sixth Extraordinary Session at the Utah State Capitol in Salt Lake City, Utah, on the 13th day of May 2020, at 4:30 p.m., for the following purpose:

For the Senate to consent to appointments made by the Governor to positions within state government of the State of Utah since the close of the 2019 General Session of the Legislature of the State of Utah.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Utah State Capitol in Salt Lake City, Utah, this 13 day of May 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/06/E

EXECUTIVE ORDER

Moving the Utah COVID-19 Public Health Risk Status to Yellow With Certain Exceptions

WHEREAS, on March 6, 2020, I issued Executive Order 2020-1, declaring a state of emergency to facilitate the State's response to novel coronavirus disease 2019 (COVID-19);

WHEREAS, on March 13, 2020, Donald J. Trump, President of the United States, issued the Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak;

WHEREAS, COVID-19 is caused by a virus that spreads easily from person to person, may result in serious illness or death, and has been characterized by the World Health Organization as a worldwide pandemic;

WHEREAS, the State must establish minimum standards to address a statewide emergency and recognizes the need for local authorities to impose directives and orders to address the unique circumstances in different locations in Utah;

WHEREAS, on April 17, 2020, the Utah Economic Response Task Force released version 2 of Utah Leads Together (hereinafter, "ULT 2.0"), which provides a color-coded health guidance system comprising four levels of activity designated as Red (High Risk), Orange (Moderate Risk), Yellow (Low Risk), and Green (Normal Risk) (hereinafter, "Utah COVID-19 Health Risk Status"), where Red is most restrictive and each level of guidance after Red becomes progressively less restrictive and more economically engaged while still protecting public health;

WHEREAS, on April 29, 2020, I ordered the Utah COVID-19 Public Health Risk Status moved from Red (High Risk) to Orange (Medium Risk);

WHEREAS, on May 15, 2020 the Utah Department of Health released version 4.4 of the Phased Guidelines for the General Public and Businesses to Maximize Public Health and Economic Reactivation as an addendum to ULT 2.0;

WHEREAS, Utah has maintained a COVID-19 transmission rate of less than 1.5 for 14 days, and statewide intensive care unit bed usage related to COVID-19 has not exceeded 10% for 14 days;

WHEREAS, the Utah Department of Health and local health departments agree that certain areas of the State should remain at Orange (Medium Risk);

WHEREAS, Utah Code § 53-2a-209(1) provides that orders issued by the governor under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act, have the "full force and effect of law";

WHEREAS, Utah Code § 53-2a-204(1)(a) authorizes the governor to utilize all available resources of state government as reasonably necessary to cope with a state of emergency; and

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary for the purpose of securing compliance with orders made pursuant to the Disaster Response and Recovery Act:

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the following:

1. As used in this Order, "Phased Guidelines" means the Phased Guidelines for the General Public and Businesses to Maximize Public Health and Economic Reactivation Version 4.4.
2. The Utah COVID-19 Public Health Risk Status is:
 - a. Orange (Moderate Risk) in Grand County, Summit County, Wasatch County, Salt Lake City, West Valley City, and Magna metro township; and
 - b. Yellow (Low Risk) in all other areas of the State not identified in Subsection (2)(a).
3. The provisions of the Phased Guidelines apply as follows:
 - a. An individual or business in an area identified in Subsection (2)(a) shall comply with the Orange (Moderate Risk) provisions of the Phased Guidelines;
 - b. An individual or business in an area identified in Subsection (2)(b) shall comply with the Yellow (Low Risk) provisions of the Phased Guidelines;
 - c. Notwithstanding any other provision of this Section (3), any reference in the Phased Guidelines to the use of a mask or face covering is adopted:
 - i. as an order with respect to:
 - A. each individual acting in the capacity as an employee of a business when the individual is unable to maintain a distance of six feet from another individual; and

- B. each individual in a healthcare setting; and
- ii. as a strong recommendation with respect to any individual not identified in Subsection (3)(c)(i).
- 4. A political subdivision desiring an exception to this Order or the Phased Guidelines shall submit the request and justification for the request through the applicable Local Health Department to the Utah Department of Health. The Utah Department of Health shall consult with the Office of the Governor as necessary.

This Order is declared effective at 12:01 a.m. on May 16, 2020, and shall remain in effect until 11:59 p.m. on May 29, 2020, unless otherwise lawfully modified, amended, rescinded, or superseded.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 15th day of May, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/022/EO

EXECUTIVE ORDER

Suspending Enforcement of Statutes Relating to Telehealth Services and Updating Citations

WHEREAS, on March 6, 2020, I issued Executive Order 2020-1, declaring a state of emergency due to coronavirus disease 2019 (COVID-19);

WHEREAS, on March 13, 2020, Donald J. Trump, President of the United States, issued the Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak;

WHEREAS, COVID-19 is caused by a virus that spreads easily from person to person, may result in serious illness or death, and has been characterized by the World Health Organization as a worldwide pandemic;

WHEREAS, the Centers for Disease Control and Prevention issued guidelines encouraging healthcare facilities to use telehealth services to reduce in-person healthcare visits and to prevent transmission of COVID-19 and other respiratory viruses;

WHEREAS, during the current state of emergency state and local health authorities have encouraged patients needing access to healthcare to use telehealth services when possible rather than go to a healthcare facility or doctor's office;

WHEREAS, the use of telehealth services is critical to ensure that the healthcare system is not overwhelmed during this state of emergency and to mitigate the continuing spread of COVID-19;

WHEREAS, Utah Code Title 26, Chapter 60, Telehealth Act governs the use of telehealth services in Utah;

WHEREAS, on March 25, 2020, I issued Executive Order 2020-7 suspending the enforcement of certain statutes governing the use of telehealth services;

WHEREAS, recent legislation has moved the provisions of the telehealth statutes suspended in Executive Order 2020-7 to Utah Code §§ 26-60-102(9)(b)(ii) and 26-60-103(4)(a);

WHEREAS, Utah Code §§ 26-60-102(9)(b)(ii) and 26-60-103(4)(a) may limit the ability of a healthcare provider to offer telehealth services during this state of emergency;

WHEREAS, Utah Code § 53-2a-209(4) authorizes the governor to suspend by executive order enforcement of a statute that is directly related and necessary to address a state of emergency;

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary to secure compliance with orders made pursuant to Utah Code Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act:

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the following:

1. Executive Order 2020-7 is rescinded and replaced by this Order.
2. Enforcement of the following statutes is suspended:
 - a. Utah Code § 26-60-102(9)(b)(ii); and
 - b. Utah Code § 26-60-103(4)(a) to the extent that it interferes with a medical provider's ability to offer telehealth services.

A medical provider that pursuant to this Order offers telehealth services that do not comply with the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended, or the federal Health Information Technology for Economic and Clinical Health Act, Pub. L. No. 111-5, 123 Stat. 226, 467, as amended, shall:

1. inform the patient the the telehealth service does not comply with those federal acts;
2. give the patient an opportunity to decline use of the telehealth service; and
3. take reasonable care to ensure security and privacy of the telehealth service.

This Order is declared effective immediately and shall remain in effect until the date the state of emergency declared in Executive Order 2020-1 is terminated, or until this Order is otherwise lawfully modified, amended, rescinded, or superseded.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 15th day of May, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/023/EO

EXECUTIVE ORDER

Moving the Utah COVID-19 Public Health Risk Status in Summit County and Wasatch County to Yellow (Low Risk)

WHEREAS, on March 6, 2020, I issued Executive Order 2020-1, declaring a state of emergency to facilitate the State's response to novel coronavirus disease 2019 (COVID-19);

WHEREAS, on March 13, 2020, Donald J. Trump, President of the United States, issued the Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak;

WHEREAS, COVID-19 is caused by a virus that spreads easily from person to person, may result in serious illness or death, and has been characterized by the World Health Organization as a worldwide pandemic;

WHEREAS, the State must establish minimum standards to address a statewide emergency and recognizes the need for local authorities to impose directives and orders to address the unique circumstances in different locations in Utah;

WHEREAS, the Utah Economic Response Task Force has prepared and updated the Utah Leads Together plan for health and economic recovery to guide the State's efforts to stabilize and reconstitute the state economy while protecting public health, including by presenting economic phases, introducing color-coded health guidance and data tools, and providing plans to assist Utah's high risk individuals and multicultural communities that have been disproportionately impacted by COVID-19;

WHEREAS, the Utah Department of Health has released and updated as an addendum to the Utah Leads Together plan the Phased Guidelines for the General Public and Businesses to Maximize Public Health and Economic Reactivation, which provides a color-coded health guidance system comprising four levels of activity designated as Red (High Risk), Orange (Moderate Risk), Yellow (Low Risk), and Green (Normal Risk) (hereinafter, "Utah COVID-19 Health Risk Status"), where Red is most restrictive and each level of guidance after Red becomes progressively less restrictive and more economically engaged while still protecting public health;

WHEREAS, on April 29, 2020, I ordered the Utah COVID-19 Public Health Risk Status moved from Red (High Risk) to Orange (Medium Risk);

WHEREAS, on May 16, 2020, I ordered the Utah COVID-19 Public Health Risk Status moved from Orange (Medium Risk) to Yellow (Low Risk) in all areas of the state, except Grand County, Summit County, Wasatch County, Salt Lake City, West Valley City, and Magna metro township;

WHEREAS, Utah has maintained a COVID-19 transmission rate of less than 1.5 for 21 days, and statewide intensive care unit bed usage related to COVID-19 has not exceeded 10% for 21 days;

WHEREAS, intensive care unit bed usage related to COVID-19 in Summit County and Wasatch County is less than 5%;

WHEREAS, the Utah Department of Health, the Summit County Health Department, and the Wasatch County Health Department agree that Summit County and Wasatch County should move to Yellow (Low Risk);

WHEREAS, the Utah Department of Health and local health departments agree that Grand County, Salt Lake City, West Valley City, and Magna metro township should remain at Orange (Medium Risk);

WHEREAS, Utah Code § 53-2a-209(1) provides that orders issued by the governor under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act, have the "full force and effect of law";

WHEREAS, Utah Code § 53-2a-204(1)(a) authorizes the governor to utilize all available resources of state government as reasonably necessary to cope with a state of emergency; and

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary for the purpose of securing compliance with orders made pursuant to the Disaster Response and Recovery Act:

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the following:

1. As used in this Order, "Phased Guidelines" means the Phased Guidelines for the General Public and Businesses to Maximize Public Health and Economic Reactivation Version 4.4.
2. The Utah COVID-19 Public Health Risk Status is:
 - a. Orange (Moderate Risk) in Grand County, Salt Lake City, West Valley City, and Magna metro township; and
 - b. Yellow (Low Risk) in all other areas of the State not identified in Subsection (2)(a).
3. The provisions of the Phased Guidelines apply as follows:
 - a. An individual or business in an area identified in Subsection (2)(a) shall comply with the Orange (Moderate Risk) provisions of the Phased Guidelines;
 - b. An individual or business in an area identified in Subsection (2)(b) shall comply with the Yellow (Low Risk) provisions of the Phased Guidelines;
 - c. Notwithstanding any other provision of this Section (3), any reference in the Phased Guidelines to the use of a mask or face covering is adopted:
 - i. as an order with respect to:

EXECUTIVE DOCUMENTS

- A. each individual acting in the capacity as an employee of a business when the individual is unable to maintain a distance of six feet from another individual; and
- B. each individual in a healthcare setting; and
 - ii. as a strong recommendation with respect to any individual not identified in Subsection (3)(c)(i).
- 4. A political subdivision desiring an exception to this Order or the Phased Guidelines shall submit the request and justification for the request through the applicable Local Health Department to the Utah Department of Health. The Utah Department of Health shall consult with the Office of the Governor as necessary.
- 5. The following orders are rescinded and replaced by this Order: Executive Order 2020-19, Executive Order 2020-20, and Executive Order 2020-22.

This Order is declared effective immediately, and shall remain in effect until 11:59 p.m. on May 29, 2020, unless otherwise lawfully modified, amended, rescinded, or superseded.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 21st day of May, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/024/EO

EXECUTIVE ORDER

Moving the Utah COVID-19 Public Health Risk Status in Bluff and Mexican Hat to Orange (Moderate Risk)

WHEREAS, on March 6, 2020, I issued Executive Order 2020-1, declaring a state of emergency to facilitate the State's response to novel coronavirus disease 2019 (COVID-19);

WHEREAS, on March 13, 2020, Donald J. Trump, President of the United States, issued the Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak;

WHEREAS, COVID-19 is caused by a virus that spreads easily from person to person, may result in serious illness or death, and has been characterized by the World Health Organization as a worldwide pandemic;

WHEREAS, the State must establish minimum standards to address a statewide emergency and recognizes the need for local authorities to impose directives and orders to address the unique circumstances in different locations in Utah;

WHEREAS, the Utah Economic Response Task Force has prepared and updated the Utah Leads Together plan for health and economic recovery to guide the State's efforts to stabilize and reconstitute the state economy while protecting public health, including by presenting economic phases, introducing color-coded health guidance and data tools, and providing plans to assist Utah's high risk individuals and multicultural communities that have been disproportionately impacted by COVID-19;

WHEREAS, the Utah Department of Health has released and updated as an addendum to the Utah Leads Together plan the Phased Guidelines for the General Public and Businesses to Maximize Public Health and Economic Reactivation, which provides a color-coded health guidance system comprising four levels of activity designated as Red (High Risk), Orange (Moderate Risk), Yellow (Low Risk), and Green (Normal Risk) (hereinafter, "Utah COVID-19 Health Risk Status"), where Red is most restrictive and each level of guidance after Red becomes progressively less restrictive and more economically engaged while still protecting public health;

WHEREAS, on April 29, 2020, I ordered the Utah COVID-19 Public Health Risk Status moved from Red (High Risk) to Orange (Medium Risk);

WHEREAS, on May 16, 2020, I ordered the Utah COVID-19 Public Health Risk Status moved from Orange (Medium Risk) to Yellow (Low Risk) in all areas of the state, except Grand County, Summit County, Wasatch County, Salt Lake City, West Valley City, and Magna metro township;

WHEREAS, Utah has maintained a COVID-19 transmission rate of less than 1.5 for 21 days, and statewide intensive care unit bed usage related to COVID-19 has not exceeded 10% for 21 days;

WHEREAS, the Town of Bluff and the census-designated place Mexican Hat are located near areas with higher COVID-19 infection rates;

WHEREAS, the Utah Department of Health and the San Juan Public Health Department agree that Bluff and Mexican Hat should move to Orange (Medium Risk);

WHEREAS, the Utah Department of Health and local health departments agree that Grand County, Salt Lake City, West Valley City, and Magna metro township should remain at Orange (Medium Risk);

WHEREAS, Utah Code § 53-2a-209(1) provides that orders issued by the governor under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act, have the "full force and effect of law";

WHEREAS, Utah Code § 53-2a-204(1)(a) authorizes the governor to utilize all available resources of state government as reasonably necessary to cope with a state of emergency; and

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary for the purpose of securing compliance with orders made pursuant to the Disaster Response and Recovery Act:

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the following:

1. As used in this Order, "Phased Guidelines" means the Phased Guidelines for the General Public and Businesses to Maximize Public Health and Economic Reactivation Version 4.4.
2. The Utah COVID-19 Public Health Risk Status is:
 - a. Orange (Moderate Risk) in Grand County, Salt Lake City, West Valley City, Magna metro township, the Town of Bluff, and the census designated place Mexican Hat; and
 - b. Yellow (Low Risk) in all other areas of the State not identified in Subsection (2)(a).
3. The provisions of the Phased Guidelines apply as follows:
 - a. An individual or business in an area identified in Subsection (2)(a) shall comply with the Orange (Moderate Risk) provisions of the Phased Guidelines;
 - b. An individual or business in an area identified in Subsection (2)(b) shall comply with the Yellow (Low Risk) provisions of the Phased Guidelines;
 - c. Notwithstanding any other provision of this Section (3), any reference in the Phased Guidelines to the use of a mask or face covering is adopted:
 - i. as an order with respect to:
 - A. each individual acting in the capacity as an employee of a business when the individual is unable to maintain a distance of six feet from another individual; and
 - B. each individual in a healthcare setting; and
 - ii. as a strong recommendation with respect to any individual not identified in Subsection (3)(c)(i).
4. A political subdivision desiring an exception to this Order or the Phased Guidelines shall submit the request and justification for the request through the applicable Local Health Department to the Utah Department of Health. The Utah Department of Health shall consult with the Office of the Governor as necessary.
5. Executive Order 2020-24 is rescinded and replaced by this Order.

This Order is declared effective immediately, and shall remain in effect until 11:59 p.m. on May 29, 2020, unless otherwise lawfully modified, amended, rescinded, or superseded.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 22nd day of May, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/025/EO

EXECUTIVE ORDER

Updating the Utah COVID-19 Health Risk Status Phased Guidelines to Version 4.5

WHEREAS, on March 6, 2020, I issued Executive Order 2020-1, declaring a state of emergency to facilitate the State's response to novel coronavirus disease 2019 (COVID-19);

WHEREAS, on March 13, 2020, Donald J. Trump, President of the United States, issued the Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak;

WHEREAS, COVID-19 is caused by a virus that spreads easily from person to person, may result in serious illness or death, and has been characterized by the World Health Organization as a worldwide pandemic;

WHEREAS, the State must establish minimum standards to address a statewide emergency and recognizes the need for local authorities to impose directives and orders to address the unique circumstances in different locations in Utah;

WHEREAS, the Utah Economic Response Task Force has prepared and updated the Utah Leads Together plan for health and economic recovery to guide the State's efforts to stabilize and reconstitute the state economy while protecting public health, including by presenting economic phases, introducing color-coded health guidance and data tools, and providing plans to assist Utah's high risk individuals and multicultural communities that have been disproportionately impacted by COVID-19;

WHEREAS, the Utah Department of Health has released and updated as an addendum to the Utah Leads Together plan the Phased Guidelines for the General Public and Businesses to Maximize Public Health and Economic Reactivation, which provide a color-coded health guidance system comprising four levels of activity designated as Red (High Risk), Orange (Moderate Risk), Yellow (Low Risk), and Green (Normal Risk) (hereinafter, "Utah COVID-19 Health Risk Status"), where Red is most restrictive and each level of guidance after Red becomes progressively less restrictive and more economically engaged while still protecting public health;

WHEREAS, on May 27, 2020, the Utah Department of Health released version 4.5 of the Phased Guidelines for the General Public and Businesses to Maximize Public Health and Economic Reactivation;

WHEREAS, Utah Code § 53-2a-209(1) provides that orders issued by the governor under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act, have the "full force and effect of law";

WHEREAS, Utah Code § 53-2a-204(1)(a) authorizes the governor to utilize all available resources of state government as reasonably necessary to cope with a state of emergency; and

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary for the purpose of securing compliance with orders made pursuant to the Disaster Response and Recovery Act;

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the following:

1. As used in this Order, "Phased Guidelines" means the Phased Guidelines for the General Public and Businesses to Maximize Public Health and Economic Reactivation Version 4.5.
2. The Utah COVID-19 Public Health Risk Status is:
 - a. Orange (Moderate Risk) in Grand County, Salt Lake City, West Valley City, and Magna metro township; and
 - b. Yellow (Low Risk) in all other areas of the State not identified in Subsection (2)(a).
3. The provisions of the Phased Guidelines apply as follows:
 - a. An individual or business in an area identified in Subsection (2)(a) shall comply with the Orange (Moderate Risk) provisions of the Phased Guidelines;
 - b. An individual or business in an area identified in Subsection (2)(b) shall comply with the Yellow (Low Risk) provisions of the Phased Guidelines;
 - c. Notwithstanding any other provision of this Section (3), any reference in the Phased Guidelines to the use of a mask or face covering is adopted:
 - i. as an order with respect to:
 - A. each individual acting in the capacity as an employee of a business when the individual is unable to maintain a distance of six feet from another individual; and
 - B. each individual in a healthcare setting; and
 - ii. as a strong recommendation with respect to any individual not identified in Subsection (3)(c)(i).
4. A political subdivision desiring an exception to this Order or the Phased Guidelines shall submit the request and justification for the request through the applicable Local Health Department to the Utah Department of Health. The Utah Department of Health shall consult with the Office of the Governor as necessary.
5. Executive Order 2020-25 is rescinded and replaced by this Order.

This Order is declared effective immediately and shall remain in effect until 11:59 p.m. on June 5, 2020, unless otherwise lawfully modified, amended, rescinded, or superseded.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 27th day of May, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/026/EO

End of the Executive Documents Section

NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between May 02, 2020, 12:00 a.m., and May 15, 2020, 11:59 p.m. are included in this, the June 01, 2020, issue of the *Utah State Bulletin*.

In this publication, each **PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **PROPOSED RULE** is usually printed. New rules or additions made to existing rules are underlined (example). Deletions made to existing rules are struck out with brackets surrounding them (~~example~~). Rules being repealed are completely struck out. A row of dots in the text between paragraphs (.) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not usually printed. If a **PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of each rule that is too long to print is available from the filing agency or from the Office of Administrative Rules.

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least July 01, 2020. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through September 29, 2020, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

The public, interest groups, and governmental agencies are invited to review and comment on **PROPOSED RULES**. *Comment may be directed to the contact person identified on the **RULE ANALYSIS** for each rule.*

PROPOSED RULES are governed by Section 63G-3-301, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5a, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R152-57	Filing No. 52767

Agency Information

1. Department:	Commerce	
Agency:	Consumer Protection	
Building:	Heber Wells	
Street address:	160 E 300 S	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 146704	
City, state, zip:	Salt Lake City, UT 84114-6704	
Contact person(s):		
Name:	Phone:	Email:
Daniel Larsen	801-530-6145	dblarsen@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R152-57. Maintenance Funding Practices Act Rule
3. Purpose of the new rule or reason for the change:
This rule is being enacted as a result of H.B. 312, passed in the 2020 General Session, codified as Title 13, Chapter 57, Maintenance Funding Practices Act. The purpose of this rule is to describe the information an applicant must provide in an application for registration as a maintenance funding provider, establish a process for registration as a maintenance funding provider, establish a process by which a maintenance funding provider may file required information with the division, and to carry out the provisions of Title 13, Chapter 57, Maintenance Funding Practices Act.
4. Summary of the new rule or change:
This rule establishes the registration process for a maintenance funding provider, the information required on an application for registration as a maintenance funding provider, and the annual reporting process for a maintenance funding provider. This rule also describes the reasons for which the Division of Consumer Protection (Division) may deny an application for registration as a maintenance funding provider.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule is not expected to have any fiscal impacts on state government revenues or expenditures. Any fiscal impact on state government was addressed in the Fiscal Note to H.B. 312 (2020).
B) Local governments:
This rule is not expected to have any fiscal impact on local governments' revenues or expenditures because it does not create any new requirements local governments must follow, nor does it otherwise constrain local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule is not expected to have any fiscal impact on small businesses because it does not impose requirements upon small businesses beyond what is required by Title 13, Chapter 57, Maintenance Funding Practices Act. Any fiscal impact on small businesses was addressed in the Fiscal Note to H.B. 312 (2020).
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This rule is not expected to have any fiscal impact on non-small businesses beyond what is required by Title 13, Chapter 57, Maintenance Funding Practices Act. Any fiscal impact on non-small businesses was addressed in the Fiscal Note to H.B. 312.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):
This rule is not expected to have any fiscal impacts on persons other than small businesses, non-small businesses, state, or local government entities because it does not impose requirements upon them beyond what is required by Title 13, Chapter 57, Maintenance Funding Practices Act.
F) Compliance costs for affected persons:
This rule does not impose compliance costs upon affected persons beyond what is required by Title 13, Chapter 57, Maintenance Funding Practices Act, and what was contemplated in the Fiscal Note to H.B. 312 (2020).
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head approval of regulatory impact analysis:			
The Executive Director of the Department of Commerce, Chris Parker, has reviewed and approved this fiscal analysis.			
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:			
In Utah, maintenance funding is likely an ancillary duty to the positions of financial fund managers or fundraisers that plan, direct, coordinate, or solicit to maintain funds for special public projects, government contract projects, hospital facilities, or other nonprofit organizations. Due to the amorphous spread of maintenance funding positions across many industries, it is unlikely that this regulation will directly impact small businesses. Accordingly, no fiscal impact is expected for small businesses over and above any fiscal impact described in the fiscal note for the legislation as these costs are either inestimable or there is no fiscal impact.			
B) Name and title of department head commenting on the fiscal impacts:			
Chris Parker, Executive Director			

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):		
Subsection 13-2-5(1)	Subsection 13-57-201(2)(b)(ii)	Subsection 13-57-201(3)(b)(ii)
Subsections 13-57-401(1) through (4)		

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	07/01/2020

10. This rule change MAY become effective on:	07/08/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

Agency Authorization Information

Agency head or designee, and title:	Chris Parker, Executive Director	Date:	05/14/2020
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R152. Commerce, Consumer Protection.

R152-57. Maintenance Funding Practices Act Rule.

R152-57-1. Purpose.

- (1) The purpose of this rule is to:
 - (a) describe the information an applicant must provide in an application for registration as a maintenance funding provider;
 - (b) establish the process for registration as a maintenance funding provider;
 - (c) establish a process by which a maintenance funding provider may file a maintenance funding agreement with the division;
 - (d) establish a process by which a maintenance funding provider shall file an annual report, in accordance with Section 13-57-203; and
 - (e) carry out the provisions of Title 13, Chapter 57, Maintenance Funding Practices Act.

R152-57-2. Authority.

(1) This rule is promulgated in accordance with Subsections 13-2-5(1), 13-57-201(2)(b)(ii), 13-57-201(3)(b)(ii), and 13-57-401(1) through (4).

R152-57-3. Definitions - Reserved.

Reserved.

R152-57-4. Application for Registration or Renewal of Registration.

(1) An application for registration or renewal of registration as a maintenance funding provider shall include:

- (a) the applicant's:
 - (i) name, and any alternate name that it uses to do business as a maintenance funding provider;
 - (ii) street address;
 - (iii) mailing address;
 - (iv) telephone number, and if applicable, facsimile number;
 - (v) email address;
 - (vi) web address, if it maintains a website;
- (b) a person designated by the applicant to be its contact person with whom the division will communicate regarding the application, and that person's:
 - (i) name;
 - (ii) street address;
 - (iii) mailing address;
 - (iv) telephone number; and
 - (v) email address;
- (c) the applicant's registered agent for service of process in the state, and the registered agent's:
 - (i) name;
 - (ii) street address;
 - (iii) mailing address; and
 - (iv) telephone number; and
- (d) a copy of any template agreement used by the maintenance funding provider to provide maintenance funding to an individual, which shall:
 - (i) satisfy each requirement for a maintenance funding agreement in accordance with Section 13-57-301; and
 - (ii) include each required disclosure in accordance with Section 13-57-302.
- (2) An application for registration or for renewal of registration as a maintenance funding provider shall:
 - (a) be executed on the form authorized by the division; and
 - (b) include payment of the application fee.
- (3) If information in an application for registration or for renewal of registration as a maintenance funding provider materially changes or becomes incorrect or incomplete, the maintenance funding provider shall, within 30 days after the information changes or becomes incorrect or incomplete:
 - (a) submit the correct information on the corresponding page of the registration application; and
 - (b) submit a cover page or letter that explains the submission is correcting information provided for an existing registration.
- (4) A maintenance funding provider shall submit to the division an application for renewal of its registration as a maintenance funding provider no less than 30 days before its registration as a maintenance funding provider will expire.
- (5) A maintenance funding provider is registered on the day the division issues the registration. The division's issuance of a registration to a maintenance funding provider does not constitute the

division's or the state's endorsement or approval of the maintenance funding provider, or of any term in the provider's contract.

R152-57-5. Annual Report.

- (1) A maintenance funding provider's annual report shall be:
 - (a) completed on a form approved by the division;
 - (b) electronically signed by an individual who has authority to legally bind the maintenance funding provider; and
 - (c) transmitted electronically to the division using the method designated by the division.

R152-57-6. Denial of Application for Registration or Renewal of Registration.

- (1) The division may deny an application for registration or renewal of registration as a maintenance funding provider if:
 - (a) the applicant does not provide all information required by the application form, Sections 13-57-301 and 302, and Section R152-57-4;
 - (b) the applicant fails, at the time it submits its application to the division, to pay the application fee in accordance with Subsection 13-57-201(2)(b)(i); or
 - (c) the applicant has been found, in accordance with Subsection 13-57-502(1), to have violated any provision of Title 13, Chapter 57, Maintenance Funding Practices Act.

KEY: consumer protection, legal funding, maintenance funding, registration

Date of Enactment or Last Substantive Amendment: 2020 Authorizing, and Implemented or Interpreted Law: 13-2-5(1); 13-57-201(2)(b)(ii); 13-57-201(3)(b)(ii); 13-57-401(1) through (4).

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-101	Filing No. 52770

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
R277-101. Public Participation in Utah State Board of Education Meetings
3. Purpose of the new rule or reason for the change:
The Utah State Board (Board) passed amendments to Rule R277-101 during its March 2020 meeting on an emergency basis to establish guidelines for electronic meetings in accordance with state law. The Board must enact changes through the regular rulemaking process within 120 days to make the amendments permanent.
4. Summary of the new rule or change:
The amendments include new definitions in Section R277-101-2 and a new Section R277-101-4, Electronic Meetings, was added to this rule.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. The Board passed amendments to Rule R277-101 during its March meeting on an emergency basis, in order to establish guidelines for electronic meetings in accordance with Section 52-4-207. The purpose of this rule change is to follow the Board's regular rulemaking process to make the March amendments permanent.
B) Local governments:
This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. The Board passed amendments to Rule R277-101 during its March meeting on an emergency basis, in order to establish guidelines for electronic meetings in accordance with Section 52-4-207. The purpose of this rule change is to follow the Board's regular rulemaking process to make the March amendments permanent.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule change is not expected to have independent fiscal impact on small businesses' revenues or expenditures. The Board passed amendments to Rule R277-101 during its March meeting on an emergency basis, in order to establish guidelines for electronic meetings in accordance with Section 52-4-207. The purpose of this rule change is to follow the Board's regular rulemaking process to make the March amendments permanent.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have independent fiscal impacts on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The Board passed amendments to Rule R277-101 during its March meeting on an emergency basis, in order to establish guidelines for electronic meetings in accordance with Section 52-4-207. The purpose of this rule change is to follow the Board's regular rulemaking process to make the March amendments permanent.

F) Compliance costs for affected persons:

There are no independent compliance costs for affected persons. The Board passed amendments to Rule R277-101 during its March meeting on an emergency basis, in order to establish guidelines for electronic meetings in accordance with Section 52-4-207. The purpose of this rule change is to follow the Board's regular rulemaking process to make the March amendments permanent.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0

Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

B) Name and title of department head commenting on the fiscal impacts:

Sydnee Dickson, State Superintendent

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Article X, Section 3	Title 52, Chapter 4	Section 52-4-207
Subsection 53E-3-401(4)		

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/01/2020

10. This rule change MAY become effective on: 07/08/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	05/14/2020
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R277. Education, Administration.

R277-101. Public Participation in Utah State Board of Education Meetings.

R277-101-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Title 52, Chapter 4, Open and Public Meetings Act, which directs that the deliberations and actions of the Board be conducted openly;
 - (c) Section 52-4-207, which allows the Board to adopt a rule governing the use of electronic meetings; and
 - (~~e~~d) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.
- (2) The purpose of this rule is to describe procedures to be followed by the Board in its conduct of the public's business in order to:
 - (a) hear from those who desire to be heard on public education matters in the state;
 - (b) effectively and efficiently utilize the time of the Board;[
and]
 - (c) balance desire for public information with other demands on the Board's time[~~-~~]; and
 - (d) allow the Board to conduct electronic meetings as needed.

R277-101-2. Definitions.

(1)(a) "Anchor location" means the physical location from which an electronic meeting originates.

(b) The anchor location for an electronic meeting of the Board, unless otherwise designated in the meeting notice, shall be the offices of the Utah State Board of Education, 250 East 500 South, Salt Lake City, Utah 84114.

(2) "Chair" means:

(1) a the duly elected Chairperson of the Board;

(2) b a Vice-chair when conducting a meeting of the Board; or

(3) c the Chair of a Board standing committee.

(3) "Electronic meeting" has the same meaning as defined in Section 52-4-103.

R277-101-3. Public Participation.

(1) The general public may attend meetings of the Board, unless a meeting is closed in accordance with Section 52-4-204.

(2) The general public may speak to the Board regarding any issue when acknowledged and recognized by the Board Chair during scheduled public comment.

(a) The chair may give priority to an individual or group who submits a written request to address the Board prior to the meeting, including a brief description of the issue to be addressed.

(b) The Board may not take action during the public comment portion of a meeting.

(c) A Board member may request that an item raised during public comment be placed on a future agenda for possible action in accordance with Board bylaws.

(d)(i) The Chair may limit the time available for individual comments.

(ii) The Chair may request groups to designate a spokesperson.

(iii) The Board shall include in its meeting agenda the amount of time set aside for public comment and the restrictions on individual speakers or group spokespersons.

(3)(a) A member of the general public may speak to items on the agenda:

(i) during the time designated for public comment; or

(ii) at the discretion of and as invited by the Chair, when the item is properly before the Board or a committee.

(b) The Chair may request that public comment be provided in writing.

(4) All presentations to the Board or one of its committees shall exemplify courteous behavior and appropriate language.

(5) The Chair may invite additional comment to the Board or a committee in the Chair's discretion.

(6) In accordance with Subsection 52-4-202(6)(b), at the discretion of the Chair, the Board may discuss a topic raised by the public in an open meeting even if the item was not included in the public meeting notice.

(7) At the discretion of the Chair, a member of the public may request to comment in the committee meeting by raise of hand.

R277-101-4. Electronic Meetings.

(1) The Board may conduct electronic meetings in accordance with the requirements set forth in Subsection 52-4-207(3).

(2)(a) The Board may allow a member of the Board or member of the public to participate in a Board meeting electronically consistent with available equipment capability.

(b) The chair shall announce the participation of an individual participating in an electronic meeting and the Board secretary shall note the individual's participation in the meeting minutes.

(3) If the Board conducts an electronic meeting a quorum of the Board shall be present at a single anchor location for the meeting.

(4) Notwithstanding Subsection (3), the Board chair may waive the requirement that a quorum be present at a single anchor location in the event of a pandemic or other public emergency so long as a quorum is present, either physically at the anchor location, or electronically, for the meeting.

(5) If the Board conducts an electronic meeting, any member may participate and vote electronically, so long as the Board meets quorum requirements.

KEY: school boards, open government, electronic meetings

Date of Enactment or Last Substantive Amendment: ~~August 7, 2017~~ 2020

Notice of Continuation: June 6, 2017

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 52-4-1; 53E-3-401(4); 52-4-207

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-301	Filing No. 52771

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R277-301. Educator Licensing
3. Purpose of the new rule or reason for the change:
This rule is being amended due to new licensing system learned through stakeholder feedback and implementation of the new licensing rules over the last year. Updates also have been made to correspond with the rules on Eminence and New Teacher Induction.
4. Summary of the new rule or change:
The amendments rename the Communications Disorder license area of concentration to Audiologist license area,

extend the time prior to renewal for associate licenses, license areas, and endorsements, update requirements for associate licenses and out of state license applicants, allow local education agencies (LEAs) to issue LEA-specific special education and pre-school special education license areas with conditions, and incorporate eminence requirements, which were previously found in Rule R277-309.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

This rule change is not expected to have material fiscal impacts on state government revenues or expenditures. Over the last year, the Board has implemented a new licensing system. This rule change provides clarifying amendments to reflect what the agency has learned from stakeholder input during that time. These changes are not expected to produce material fiscal impacts.

B) Local governments:

This rule change is not expected to have material fiscal impacts on local government revenues or expenditures. Over the last year, the Board has implemented a new licensing system. This rule change provides clarifying amendments to reflect what the agency has learned from stakeholder input during that time. These changes are not expected to produce material fiscal impacts.

C) Small businesses ("small business" means a business employing 1-49 persons):

This rule change is not expected to have material fiscal impacts on small business revenues or expenditures. Over the last year, the Board has implemented a new licensing system. This rule change provides clarifying amendments to reflect what the agency has learned from stakeholder input during that time. These changes are not expected to produce material fiscal impacts.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have material fiscal impacts on revenues or expenditures for persons other than small businesses, businesses, or local government entities. Over the last year, the Board has implemented a new licensing system. This rule change provides clarifying amendments to reflect what the agency has learned from stakeholder input during that time. These changes are not expected to produce material fiscal impacts.

F) Compliance costs for affected persons:

There are no compliance costs for affected persons. Over the last year, the Board has implemented a new licensing system. This rule change provides clarifying amendments to reflect what the agency has learned from stakeholder input during that time. These changes are not expected to produce material fiscal impacts.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0

Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head approval of regulatory impact analysis:			
The department head, Sydnee Dickson, has reviewed and approved this fiscal analysis.			
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:			
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses revenues or expenditures because there are no applicable large businesses and it does not require any expenditures of or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.			
B) Name and title of department head commenting on the fiscal impacts:			
Sydnee Dickson, State Superintendent			

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):		
Article X, Section 3	Subsection 53E-3-401(4)	Section 53E-6-201

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	07/01/2020

10. This rule change MAY become effective on:	07/08/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	05/14/2020
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R277. Education, Administration.

R277-301. Educator Licensing.

R277-301-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
 - (c) Section 53E-6-201, which gives the Board power to issue licenses.

(2) This rule specifies the types of licenses and license areas of concentration available and the requirements and procedures for obtaining a license, required for employment as a licensed educator in the public schools of Utah.

R277-301-2. Definitions.

- (1) "Accredited school" means a public or private school that:
 - (a) meets standards essential for the operation of a quality school program; and
 - (b) has received formal approval through a regional accrediting association.

~~(2) "Comprehensive Administration of Credentials for Teachers in Utah Schools" or "CACTUS" means the electronic file maintained on all licensed Utah educators including information such as:~~

- ~~(a) personal directory information;~~
 - ~~(b) educational background;~~
 - ~~(c) endorsements;~~
 - ~~(d) employment history; and~~
 - ~~(e) a record of disciplinary action taken against the educator.~~
- (2) "Currently enrolled" means:

- (a) that an individual has been formally accepted into a Board-approved educator preparation program; and
- (b) that the program considers the individual to be an active participant.

(3) "Educator preparation program" means the same as that term is defined in Section R277-303-2.

(4) "Eminence" means the same as that term is defined in Section R277-303-9.

(4) "Endorsement" means a designation on a license area of concentration earned through demonstrating required competencies established by the Superintendent that qualifies the individual to:

- (a) provide instruction in a specific content area; or
 - (b) apply a specific set of skills in an education setting.
- (5) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

NOTICES OF PROPOSED RULES

(~~6~~7)(a) "License areas of concentration" or "license area" means a designation on a license of the specific educational setting or role for which the individual is qualified, to include the following:

- (i) Early Childhood;
- (ii) Elementary;
- (iv) Secondary;
- (v) Educational Leadership
- (vi) Career and Technical Education or "CTE";
- (vii) School Counselor;
- (viii) School Psychologist;
- (ix) Special Education;
- (x) Preschool Special Education;
- (xi) Deaf Education;
- (xii) Speech-Language Pathologist;
- (xiii) Speech-Language Technician;
- (xiv) School Social Worker; and
- (xv) ~~Communication Disorders~~ Audiologist.

(~~7~~8) "Licensing Jurisdiction" means the designated educator licensing authority in any foreign country or state of the United States of America and the Department of Defense Education Activity (DoDEA).

(~~8~~9) "Renewal" means reissuing or extending the length of a license consistent with Rule R277-~~500~~302.

R277-301-3. License Structure.

- (1) Utah educator licenses include the following licenses:
 - (a) Associate educator license;
 - (b) Professional educator license; and
 - (c) LEA-specific educator license.

~~_____~~(2) ~~All new Utah educator licenses shall include general, content knowledge, and pedagogical requirements.~~

(~~3~~2) The Superintendent may only issue a ~~one~~ single active Utah educator license to an individual.

(~~4~~3) An educator license shall include at least one area of concentration.

(~~5~~4) License areas of concentration and endorsements shall have a designation of:

- (a) associate;
- (b) professional; or
- (c) LEA-specific.

(~~6~~5) An associate educator license may only include associate or LEA-specific license areas of concentration and endorsements.

(~~7~~6) An LEA-specific educator license may only include LEA-specific license areas of concentration and endorsements.

(7) An educator may add a license area or endorsement to an existing license or license area of concentration by meeting the requirements for an associate, professional, or LEA specific endorsement as established in this rule.

(8) The Superintendent may establish deadlines and uniform forms and procedures for all aspects of licensing.

~~_____~~(9) ~~The Superintendent shall review, adopt, and establish passing standards for all assessments required for educator licensing.~~

(~~10~~9)(a) All licenses expire on June 30 of the year of expiration and a licensee may ~~be~~ renew~~ed~~ any time after January 1 of the same year.

(b) Responsibility for license renewal rests solely with the licensee.

R277-301-4. Associate Educator License Requirements.

(1) The Superintendent shall issue an associate educator license to an individual that applies for the license and that meets all requirements in this Section R277-301-4.

(2) An associate educator license, license area, or endorsement is valid for ~~two~~three years.

(3) The Superintendent may only renew an associate educator license if:

(a) the individual has less than ~~two~~three years of experience in a Utah public or accredited private school; or

(b) the individual is employed by a Utah public or accredited private school and the employer has requested a one year extension of the license.

(4) The general requirements for an associate educator license shall include:

(a) completion of a criminal background check including review of any criminal offenses and clearance in accordance with Rule R277-214 and continued monitoring in accordance with Subsection 53G-11-403(1);

(b) completion of the educator ethics review ~~described in R277-500~~ within one calendar year prior to the application; and

(c) one of the following:

- (i) a bachelor's degree or higher from a regionally accredited institution;

(ii) current enrollment in a university-based Board-approved educator preparation program that will result in a bachelor's degree or higher from a regionally accredited institution; or

(iii) skill certification in a specific CTE area as established by the Superintendent.

(5) The content knowledge requirements for an associate educator license shall include:

(a) for an elementary license area, passage of an elementary content knowledge test, approved by the Superintendent, that distinctly measures content in:

- (i) mathematics;
- (ii) reading/language arts;
- (iii) social studies; and
- (iv) science;

(b) for a secondary or CTE license area with a content endorsement, or for an endorsement being added to a professional license area, one of the following:

(i) ~~(A)~~ passage of a content knowledge test approved by the Superintendent, where ~~available~~required; or

(B) demonstration of the competency criteria established by the Superintendent if no content knowledge test is required;

(ii) a bachelor's degree or higher with a major in the content area from a regionally accredited university; or

(iii) enrollment in a program that will result in a degree described in Subsection (5)(b)(ii); and

(c) for all other license areas, enrollment in:

- ~~_____~~(i) a university-based Board-approved educator preparation program; or

(ii) an educator preparation program administered by the Superintendent.

(6) Additional requirements for an associate educator license shall include:

(a) successful completion of professional learning modules created or approved by the Superintendent in:

(i) educator ethics;
 (ii) classroom management and instruction;
 (iii) basic special education law and instruction;
 (iv) the Utah Effective Teaching Standards described in R277-530; or

(b) enrollment in a university-based Board-approved educator preparation program.[

~~(7) An individual holding a professional educator license may receive an associate license area or endorsement in additional areas if all the requirements of this section are met.]~~

(7) An educator that holds a professional license area of concentration and has met the competency criteria established by the Superintendent need not complete the requirements detailed in Subsection (5).

(8) A license applicant who has received or completed license preparation activities inconsistent with this rule may present compelling information and documentation for review and approval by the Superintendent to satisfy the associate educator license requirements.

(9) The Superintendent shall designate a panel of at least three Board staff members to review an appeal made under subsection (8).

(10) An LEA that employs an individual that holds an associate educator license shall develop a personalized professional learning plan designed to support the educator in meeting the requirements for a professional educator license no later than 60 days after beginning work in the classroom, which shall:

(a) be provided to the Superintendent upon request;

(b) include a formal discussion and observation process no later than 30 days after beginning work in the classroom; and

(c) consider:

(i) previous education related experience; and

(ii) previous educational preparation activities.

(11) An educator with an associate educator license may upgrade to a professional educator license at any time prior to expiration of the associate educator license if the educator meets all requirements of Section R277-301-5.

R277-301-5. Professional Educator License Requirements.

(1) The Superintendent shall issue a professional educator license to an individual that applies for the license and meets all requirements in this Section R277-301-6.

(2) A professional educator license, license area, or endorsement is valid for five years.

(3) The general requirements for a professional educator license shall include:

(a) all general requirements for an associate educator license under Subsection R277-301-5(4);

(b) completion of:

(i) a bachelor's degree or higher from a regionally accredited institution; or

(ii) skill certification in a specific CTE area as established by the Superintendent;~~and~~

(c) for an individual with an early childhood, elementary, special education, or preschool special education license area of concentration, completion of a literacy preparation assessment; and

([e]d) one of the following:

(i) a recommendation from a Board-approved educator preparation program; or

(ii) a standard educator license in the area issued by a licensing jurisdiction outside of Utah that is currently valid or is renewable consistent with Section 53E-6-307.

(4) The content knowledge requirements for a professional educator license, license area, and endorsement shall include:

(a) all content knowledge requirements for an associate educator license under Subsection R277-301-4(5);~~and~~

(b) demonstration of all content knowledge competencies as established by the Superintendent~~]; and~~

(c) passage of a content knowledge test provided by the Superintendent, where required.

(5) An applicant for a secondary or CTE content area endorsement that holds a bachelor's degree or higher with a major in the content area from a regionally accredited university need not complete the requirement described in Subsection (4)(c).

~~([5]6)~~ The pedagogical requirements for professional educator license shall include:

(a) demonstration of all pedagogical competencies as established by the Superintendent; and

(b) when applicable to the license area, passage of a pedagogical performance assessment meeting standards:

(i) established by the Superintendent; and

(ii) approved by the Board.

~~([6]7)~~ An individual holding a Utah level 1, level 2, or level 3 educator license on January 1, 2020 ~~[is considered to have met]~~ meets the pedagogical requirements described in Subsection ~~([5]6)~~.

~~([7]8)~~ An individual holding a Utah level - APT educator license that is employed by a Utah LEA and an individual enrolled in ARL or a university-based Board-approved educator preparation program on January 1, 2020 may meet the content knowledge and pedagogical requirements described in this Section R277-301-6 by completing all requirements of the applicable program.

~~([8]9)~~ An individual holding a Utah professional educator license and license area in early childhood education, elementary, secondary, CTE, special education, or deaf education is considered to have met the pedagogical performance assessment requirement of Subsection (5)(b) if applying to add any of the license areas in the subsection.

~~([9]10)~~ A license applicant who has received or completed license preparation activities inconsistent with this rule may present compelling information and documentation for review and approval or denial by the Superintendent to satisfy the professional educator license requirements.

~~(1[0]1)~~ The Superintendent shall designate a panel of at least three individuals, including at least two Board licensed educators not employed by the Board, to review an appeal and make a recommendation to the Superintendent for the Superintendent's review and decision described in Subsection ~~([9]10)~~.

R277-301-6. Educator Licenses Issued by Licensing Jurisdictions Outside of Utah.

(1) The Superintendent shall review applications for a Utah educator license for individuals holding educator licenses issued by licensing jurisdictions outside of Utah to determine if the applicant has met the requirements for a Utah license under this rule.

(2) The Superintendent shall accept scores from an applicant that meet the Utah standard for passing on assessments from licensing jurisdictions outside of Utah that utilize the same assessment as Utah as meeting the requirements of this rule.

(3) The Superintendent shall accept scores from an applicant on reasonably equivalent content knowledge or pedagogical performance assessments utilized by licensing jurisdictions outside of Utah that meet the passing standard of that jurisdiction as meeting the requirements of this rule.

(4) The Superintendent shall accept demonstrations of content knowledge and pedagogical competencies from an applicant

NOTICES OF PROPOSED RULES

utilized by licensing jurisdictions outside of Utah that are reasonably equivalent to Utah competencies.

(5) ~~[Individuals]~~An individual with ~~[4 or more years]~~one year of successful experience in a public or accredited private school under a standard license issued by another jurisdiction ~~[shall be considered to have met both]~~need not complete the content knowledge and pedagogical assessment requirements in the areas and subjects taught.

(6) An individual holding a standard license from another jurisdiction that was enrolled in a preparation program prior to January 1, 2020 and received the standard license prior to August 1, 2021 need not complete the requirements of Subsection R277-301-5(6)(b).

R277-301-7. LEA-specific Educator License Requirements.

(1) The Superintendent may issue an LEA-specific educator license to a candidate if:

(a) the LEA requesting the LEA-specific educator license has an adopted policy, posted on the LEA's website, which includes:

- (i) educator preparation and support:
 - (A) as established by the LEA; and
 - (B) aligned with the Utah Effective Teaching Standards described in R277-530;
- (ii) criteria for employing educators with an LEA-specific license; and
- (iii) compliance with all requirements of this Rule R277-301;

(b) an LEA governing board applies on behalf of the ~~[the]~~ candidate

(c) the candidate meets all the requirements in this Section R277-301-7; and

(d) within the first year of employment, the LEA trains the candidate on:

- (i) educator ethics;
- (ii) classroom management and instruction;
- (iii) basic special education law and instruction; and
- (iv) the Utah Effective Teaching Standards described in R277-530.

~~(2)(a) Except as provided in Subsection (2)(b), an LEA governing board may request an LEA specific educator license for a license area described in Subsection R277-301-2(6).~~

~~(b) An LEA may not request an LEA specific educator license for a license area in:~~

- ~~(i) Special Education; or~~
- ~~(ii) Preschool Special Education.~~

~~(3)2~~ An LEA-specific license, license area, or endorsement is valid only within the requesting LEA.

~~(4)3~~ An LEA-specific license, license area, or endorsement is valid for one, two, or three years in accordance with the LEA governing board's application and this Section R 277-301-7.

~~(5)4~~ The first renewal of an LEA-specific educator license, license area, or endorsement shall be approved or denied by the Board.

~~(6)5~~ The Board may require that subsequent renewals be approved by the Board on a case by case basis.

(6)(a) An LEA-specific license area of concentration may only be issued for one school year and may not be renewed for a license area in:

- (i) special education; or
- (ii) pre-school special education.

(b) If an LEA grants a license area of concentration under this Subsection (6), the LEA shall provide special education law training recommended by the Superintendent within the first month of the educator's employment.

(7) An LEA-specific license expires immediately if the educator's employment with the LEA that requested the license ends.

(8) The general requirements for an LEA-specific educator license shall include:

(a) completion of a criminal background check including review of any criminal offenses and clearance in accordance with Rule R277-214 and continued monitoring in accordance with Subsection 53G-11-403(1);

(b) completion of the educator ethics review ~~[described in Rule R277-500]~~ within one calendar year prior to the application; and

(c) approval of the request by the LEA governing board in a public meeting no more than 60 days prior to the application, which includes the LEA's rationale for the request.

(9) The content knowledge and pedagogical requirements for an LEA-specific educator license shall be established by the LEA governing board.

(10) An LEA school that requests an LEA-specific license, license area, or endorsement shall prominently post the following information on each school's website:

- (a) disclosure of the fact that the school employs individuals holding LEA-specific educator licenses, license areas, or endorsements;
- (b) an explanation of the types of licenses issued by the board;
- (c) the percentage of the types of licenses, license areas, and endorsements held by educators employed in the school based on the employees' FTE as reported to the Superintendent; and
- (d) a link to the Utah Educator Look-up tool provided by the Superintendent in accordance with Subsection R277-512-7(6).

R277-301-8. Eminence.

(1) The purpose of an eminence designation is to allow an individual with exceptional training or expertise, consistent with Section R277-301-2, to teach or work in the public schools on a limited basis.

(2) An LEA may request an eminence designation for an LEA-specific license, license area, or endorsement for a teacher whose employment with the LEA is no more than 37% of a teacher's regular instructional load.

(3)(a) The Superintendent may approve or deny a request under Subsection (2).

(b) The Superintendent may require documentation of the exceptional training, skills, or expertise of a candidate for an eminence designation.

(4)(a) The Superintendent may approve or deny the renewal of an LEA-specific license, license area, or endorsement with an eminence designation at the request of the LEA that requested the designation.

(b) Subsection (4)(a) supersedes Subsection R277-301-7(5) for a licensee with an eminence designation.

(c) If a request for an eminence designation or renewal of an eminence designation is denied by the Superintendent, the LEA may appeal the denial to the Board.

[R277-301-8. Requirements for LEAs.

~~(1) An LEA shall provide a mentoring program that provides a trained mentor educator and annual mentoring plan:~~

- ~~(a) for educators holding an associate educator license;~~
- ~~(b) for at least two years for LEA specific educator license holders; and~~
- ~~(c) for educators holding a professional educator license with less than three years of experience.~~

~~(2) A trained mentor educator under Subsection (1) shall hold a professional educator license and shall, where possible:~~

- ~~(a) perform substantially the same duties as the educator with release time to work as a mentor; or~~

~~(b) be assigned as an instructional coach or equivalent position.~~
~~(3) A trained mentor educator under Subsection (1) shall assist the educator to meet the Utah Effective Educator Standards established in Rule R277-530, but may not serve as an evaluator of the educator.~~
~~(4) A mentoring program under Subsection (1) shall include:~~
~~(a) a formal professional learning plan and LEA support in meeting the requirements of a professional license area; and~~
~~(b) if the educator holds an LEA specific educator license, on-going training on educator ethics and special education.~~
~~(5) An LEA school that requests LEA specific licenses, license areas, or endorsements shall prominently post the following information on each school's website:~~
~~(a) disclosure of the fact that the school employs individuals holding LEA specific educator licenses, license areas, or endorsements;~~
~~(b) the percentage of the types of licenses, license areas, and endorsements held by educators employed in the school based on the employees' FTE in CACTUS; and~~
~~(c) a link to the Utah Educator Look up tool provided by the Superintendent in accordance with Subsection R277-515-7(6).~~

[R277-301-9. Superintendent Annual Report to the Board.

(1) The Superintendent shall annually report to the Board on licensing, including:
 (1) ~~a~~ educator licensing;
 (2) ~~b~~ educator preparation; and
 (3) ~~c~~ equitable distribution of teachers.
 (2) The Superintendent shall use a process approved by the Board to:
 (a) ~~establish the content knowledge competency requirements required for associate and professional endorsements; and~~
 (b) ~~review, adopt, and establish passing standards for all assessments required for educator licensing.~~
 (3) ~~The Superintendent shall create an ethics review for all licensed educators based upon Rule R277-217, Educator Standards and Local Education Agency (LEA) Reporting.~~
 (4) ~~The Superintendent may correct identified errors in licensing information with notice to the license holder.~~

[R277-301-10. Effective Date.

(1) ~~This rule will be effective beginning January 1, 2020.~~
 (2) ~~This rule will supersede Rule R277-502 on January 1, 2020.]~~

KEY: professional competency, educator licensing
Date of Enactment or Last Substantive Amendment: [July 2, 2019]2020
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; [53A-6-104; 53A-1-401]53E-6-102; 53E-3-401

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R277-302	Filing No. 52773

Agency Information

1. Department:	Education
Agency:	Administration

Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R277-302. Educator Licensing Renewal
3. Purpose of the new rule or reason for the change:
As part of the process of updating the licensing structure, Utah State Board of Education has changed the requirements for license renewal.
4. Summary of the new rule or change:
The new licensing renewal updates the requirements for renewing an educator license, including reduced point requirements, clarification of required steps to gain renewal points, and implementation of local education agency (LEA) training requirements to simplify renewal for active educators.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have material fiscal impact on state government revenues or expenditures. The agency believes the updated license renewal processes will be similarly or less burdensome to entities and individuals than the previous license renewal process.
B) Local governments:
This rule change is not expected to have material fiscal impact on local governments' revenues or expenditures. The agency believes the updated license renewal processes will be similarly or less burdensome to entities and individuals than the previous license renewal process.
C) Small businesses ("small business" means a business employing 1-49 persons):

This rule change is not expected to have material fiscal impact on small businesses' revenues or expenditures. The agency believes the updated license renewal processes will be similarly or less burdensome to entities and individuals than the previous license renewal process.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have material fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The agency believes the updated license renewal processes will be similarly or less burdensome to entities and individuals than the previous license renewal process.

F) Compliance costs for affected persons:

There are no compliance costs for affected persons. The agency believes the updated license renewal processes will be similarly or less burdensome to entities and individuals than the previous license renewal process.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0

Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on LEAs and will not have a fiscal impact on small businesses either.

B) Name and title of department head commenting on the fiscal impacts:

Sydnee Dickson, State Superintendent

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Article X, Section 3	Subsection 53E-3-401(4)	Section 53E-6-201
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also

request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	07/01/2020
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10. This rule change MAY become effective on:	07/08/2020
--	------------

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	05/15/2020
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R277. Education, Administration.

R277-302. Educator Licensing Renewal.

R277-302-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53E-6-201, which gives the Board power to issue licenses.

(2) The purpose of this rule is to ensure that licensed educators maintain and enhance their education-related skills and knowledge throughout the duration of the license.

R277-302-2. Definitions.

(1) "Alternate professional learning activities" means activities that enhance or improve the education-related skills and knowledge of an educator serving in school, but not in a role as a primary educator, including:

(a) work as a paraprofessional;

(b) substitute teaching in a public school;

(c) volunteering in a public school;

(d) travel with an educational purpose or component;

(e) presenting at professional conferences, including the time to design or prepare the presentation;

(f) educational research;

(g) work as a department chair in a public school.

(2) "Conflict of interest" means a business, family, monetary, or relationship concern that may cause a reasonable educator to be unduly influenced or that creates the appearance of undue influence.

(3) "Educator" has the same meaning as defined in Section 53E-6-102.

(4) "Educator collaboration opportunities" mean opportunities in which educators engage in data analysis in collaboration with colleagues to inform instructional adjustments and student need, including through professional learning communities.

(5) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(6) "Licensed administrator" means:

(a) an individual holding a current Utah educator license with a school leadership license area of concentration;

(b) an individual, familiar with the requirements of this rule, holding an equivalent license in another jurisdiction; or

(c) an individual currently employed in an administrative position in a Utah charter school or accredited private school.

(7)(a) "Professional education entity" means a public or private organization engaged in services related, in whole or in part, to promoting education.

(b) "Professional education entity" includes:

(i) an LEA;

(ii) the Board, including its staff;

(iii) another elected or appointed government body responsible for education policy;

(iv) a regional service center;

(v) a union or association of professional educators;

(vi) an association whose members are comprised of Utah LEAs or schools;

(vii) an accredited p-12 private institution; and

(viii) a regionally accredited college or university.

(8) "Professional learning experiences" means learning experiences in:

(a) curriculum development;

(b) school improvement;

(c) mentoring and training new teachers; and

(d) instructional coaching.

(9) "Professional service" means service in a local, state, or national government or professional education association leadership role.

R277-302-3. Educator License Renewal Requirements.

(1) An individual that holds a current Utah educator license may apply to the Superintendent for renewal of the license after meeting all requirements detailed in this rule between January 1 and June 30 of the year in which the educator's license expires.

(2) An individual that holds an expired associate or professional Utah educator license may apply to the Superintendent for renewal of the license after meeting all requirements detailed in this rule.

(3) A Utah educator license holder shall accrue 100 license renewal points prior to license renewal, beginning with the date of each new renewal.

(4) Prior to applying for renewal, an individual that holds a professional Utah educator license shall:

(a) complete license renewal points as detailed in Section R277-302-7 during the five years prior to the date of renewal;

(b) complete the USBE educator ethics review during the year prior to the date of renewal; and

(c) maintain ongoing background monitoring in accordance with Section 53G-11-403.

(5) Prior to applying for renewal, an individual that holds an associate Utah educator license shall:

(a) have less than two years of experience in an educator position related to the area of licensure in a public or accredited private school in Utah;

(b) meet the current content knowledge requirements for an associate educator license related to the educator's area of licensure detailed in Section R277-301-4;

(c) redo the professional learning modules required for an associate educator license detailed in Section R277-301-4 during the six months prior to the date of renewal;

(d) complete the USBE educator ethics review during the year prior to the date of renewal; and

(e) maintain ongoing background monitoring in accordance with Section 53E-6-401.

(6) An individual that holds an expired professional Utah educator license and that has not been employed by a Utah LEA for at least one school year may apply for renewal under the Returning Educator Relicensure program described in Section R277-302-8.

R277-302-4. Superintendent Responsibilities.

(1) The Superintendent shall establish application procedures for Utah educator license renewal that:

(a) include simplified procedures for an educator that:

(i) is currently employed in an educator position by a professional education entity;

(ii) has been employed in an educator position by a professional education entity in each of the years covered by the individual's Utah educator license; and

(iii) has participated in professional learning activities as required by Subsection R277-302-6(1);

(b) require verification of the educator's completed license renewal points by the signature of a current licensed administrator without a conflict of interest with the educator; and

(c) is completed through an automated, online platform, to the extent reasonably possible given existing technology and resources.

(2) The Superintendent shall monitor a random sample of approximately ten percent of annual renewals that utilize automated or online procedures.

(3) The Superintendent shall provide guidance to educators to the extent that funding allows that:

(a) promotes participation in activities that are not cost intensive;

(b) encourages licensed administrators to consider a broad variety of activities under Subsection R277-302-7(4)(d); and

(c) supports educators in learning how and where to earn points without directly referring educators to paid services.

(4)(a) The Superintendent may monitor review any renewal transaction for accuracy and compliance with this rule.

(b) The Superintendent may void a license transaction that was completed on the basis of inaccurate information at any time with notice to the license holder.

(5) If the Superintendent identifies evidence of intentional misconduct under Rule R277-217 during monitoring in accordance with this Section R277-302-4, the Superintendent shall report the allegations to UPPAC.

(6) The Superintendent shall provide a model policy to facilitate the resolution of a conflict between a licensed educator and a licensed administrator that arises based on the requirement detailed in Subsection R277-302-4(1)(b), which may include a provision for review of the issues by the Superintendent.

R277-302-5. Educator Responsibilities.

(1) An educator is responsible for acquiring and retaining documentation and signatures related to the completion of professional learning activities used to meet the requirements of this rule.

(2) An educator shall finalize all renewal documentation during the six months prior to the date of renewal.

(3) An educator shall retain all documentation related to a renewal application under this rule for no less than two years from the date of renewal.

(4) If an educator's renewal application is identified for monitoring in accordance with Subsections R277-302-4(2) and (3), the educator shall submit any requested documentation to the Superintendent in a timely manner.

R277-302-6. LEA Responsibilities.

(1) An LEA that employs an individual holding a professional Utah educator license shall provide opportunities for the individual to complete a minimum of the equivalent of twenty license renewal points as defined in Section R277-302-7 of professional learning activities to all such license holders annually, which shall include trainings required by state law or Board rule.

(2) An LEA shall maintain or provide to the educator documentation of professional learning activities under Subsection (1).

(3) If an individual that holds a professional Utah educator license does not participate in the activities provided under Subsection (1), the educator's LEA shall notify the educator and the Superintendent that the educator is not eligible to utilize the simplified procedures described in Subsection R277-302-4(1)(a).

R277-302-7. Professional Renewal Activities.

(1) An educator with a current assignment in a Utah LEA shall earn points in at least two of the areas identified in this Section R277-302-7, subject to the maximum renewal points in Subsections (4).

(2) An educator without a current assignment in a Utah LEA shall earn points in any area identified in this Section R277-302-7 with no maximum renewal points in any given area.

(3) Notwithstanding Subsections (1) and (2):

(a) an educator may receive 100 points towards renewal for earning national board certification, with no further renewal points required;

(b) an educator may receive 20 points per national board certification component completed during any given renewal cycle; or

(c) an educator who held a Level 3 license prior to July 1, 2020, may receive 25 renewal points in recognition of the Level 3 requirements in the educator's first renewal after July 1, 2020.

(4) An educator may earn points in the following areas:

(a) Professional learning experiences, up to a maximum of 90 points, as follows:

(i) one renewal point for each clock hour of scheduled professional learning activities sponsored or approved by a professional education entity in the following areas:

(A) university coursework;

(B) USBE professional learning;

(C) curriculum development;

(D) school improvement;

(E) mentoring and training of new teachers;

(F) training and support designed specifically for new teachers or teachers identified as ineffective on the teacher's annual evaluation;

(G) instructional coaching; or

(H) conferences, workshops, institutes, trainings, symposia, or staff-development programs; or

(ii) ten renewal points per year for a teacher evaluation deemed highly effective;

(b) Educator collaboration opportunities, with one renewal point for each clock hour up to a maximum of 30 points;

- (c) Professional service, with one renewal point for each clock hour up to a maximum of 50 points; and
- (d) Alternate learning opportunities, with one renewal point for each clock hour up to a maximum of 30 points.

R277-302-8. Returning Educator Relicensure Program.

(1) An individual utilizing the Returning Educator Relicensure program shall:

- (a) hold a position in a Utah LEA requiring an educator license;
 - (b) obtain a new background check and enroll in on-going monitoring as required by Section 53E-6-401;
 - (c) resolve any background check issues that may arise in accordance with Rule R277-214;
 - (d) complete a one-school-year professional learning plan developed jointly by the educator's direct administrative supervisor and the returning educator consistent with Section R277-302-7 taking into account the following:
 - (i) previous successfully education experience;
 - (ii) formal educational preparation;
 - (iii) period of time between last education experience and the present;
 - (iv) school goals for student achievement and with the employing school and the educator's role in accomplishing those goals;
 - (v) the returning educator's professional abilities, as determined by a formal discussion and observation process completed within the first 30 days of employment; and
 - (vi) completion of additional necessary professional development for the educator;
 - (e) submit a copy of the professional learning plan described in Subsection (d) to the Superintendent; and
 - (f) submit documentation upon completion of the educator's professional learning plan to the Superintendent.
- (2) The Superintendent shall establish procedures for the Returning Educator Relicensure program, including:
- (a) renewal of the educator's professional educator license for one school year;
 - (b) submission of the professional learning plan as required by Subsection (1)(e) within 60 days of the educator's starting employment date; and
 - (c) submission of documentation required by Subsection (1)(f) prior to the completion of the school year.
- (3) A professional learning plan under this Section:
- (a) may include activities provided by the LEA under Section R277-302-6; and
 - (b) shall include additional activities focusing on the unique needs of the educator.

R277-302-9. Licensing Renewal Point Options for Grandfathered Licenses.

- (1) Notwithstanding Subsection R277-302-3(4)(a), an educator whose professional Utah educator license has an expiration date prior June 30, 2025 may earn license renewal points in accordance with this Section R277-302-9 on the educator's first subsequent renewal, in addition to the options described in Section R277-302-7 if the educator does not meet the renewal requirements detailed in this rule.
- (2) If an educator chooses to earn license renewal points under this Section R277-302-9:
- (a) an educator who held a level two or three license prior to June 30, 2020, shall accrue 200 points in the five years prior to applying for renewal; and

(b) an educator who held a level one license prior to June 30, 2020 shall accrue 100 points in the three years prior to applying for renewal.

- (3) An educator may earn license renewal points for employment in a position requiring a Utah educator license, as follows:
- (a) A educator may earn 35 license renewal points per year of employment, up to a maximum of 105 points per license cycle; and
 - (b) An educator may only count years of employment with satisfactory performance evaluations for license renewal points.
- (4) An educator may earn license renewal points for content and pedagogy testing, as follows:
- (a) A qualifying test must be approved by the Superintendent;
 - (b) For each qualifying test submitted with a passing score, the educator qualifies for 25 license renewal points; and
 - (c) An educator may submit no more than two qualifying test scores per license cycle.
- (5) An educator may receive license renewal points for service in a leadership role in a national, state-wide, or LEA-recognized professional education organization, as follows:
- (a) The educator's direct administrative supervisor shall approve qualifying service under Subsection (5); and
 - (b) Each clock hour of participation qualifies for one license renewal point, not to exceed ten points per year.
- (6) An educator may receive license renewal points for substituting in a public school or accredited private school in Utah, as follows:
- (a) The educator must have an inactive license during the school year the points are earned;
 - (b) Two hours of documented substitute time equals one license renewal point, not to exceed 25 points per year or 50 points per license cycle; and
 - (c) A licensed administrator at the LEA where the substitute teaching occurred shall verify hours on LEA or school letterhead;
- (7) An educator may receive license renewal points for paraprofessional or volunteer service in a public school or accredited private school in Utah, as follows:
- (a) The educator must have an inactive license during the school year the points are earned;
 - (b) Three hours of documented paraprofessional or volunteer service equals one license renewal point, not to exceed 25 points per year or 50 points per license cycle; and
 - (c) A licensed administrator at the LEA where the paraprofessional or volunteer service occurred shall verify hours on LEA or school letterhead.

KEY: license renewal, educators
Date of Enactment or Last Substantive Amendment: 2020
Authorizing, and Implemented or Interpreted Law: Art X Sec 3: 53E-3-401(4)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-306	Filing No. 52774

Agency Information

1. Department:	Education
Agency:	Administration
Building:	Board of Education

NOTICES OF PROPOSED RULES

Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R277-306. Educator Preparation Programs for School Psychologists, Audiologists, Speech-Language Pathologists, Speech-Language Technicians, Counselors, and Social Workers
3. Purpose of the new rule or reason for the change:
The rule has been updated to change the requirements of school counselor preparation programs.
4. Summary of the new rule or change:
The amendments clarify the admissions requirements for a school counselor preparation program.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have material fiscal impact on state government revenues or expenditures. The amendments align with current practice and requirements for preparation programs operating in this space.
B) Local governments:
This rule change is not expected to have material fiscal impact on local governments' revenues or expenditures. The amendments align with current practice and requirements for preparation programs operating in this space.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule change is not expected to have material fiscal impact on small businesses' revenues or expenditures. The amendments align with current practice and requirements for preparation programs operating in this space.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have material fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The amendments align with current practice and requirements for preparation programs operating in this space.

F) Compliance costs for affected persons:

There are no compliance costs for affected persons. The amendments align with current practice and requirements for preparation programs operating in this space.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0

Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

B) Name and title of department head commenting on the fiscal impacts:

Sydnee Dickson, State Superintendent

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Article X, Section 3	Subsection 53E-3-401(4)	Subsection 53E-6-201(3)(a)
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in

the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/01/2020

10. This rule change MAY become effective on: 07/08/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	05/14/2020
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R277. Education, Administration.

R277-306. Educator Preparation Programs for School Psychologists, Audiologists, Speech-Language Pathologists, Speech-Language Technicians, Counselors, and School Social Workers.

R277-306-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53E-6-201(3)(a), which allows the Board to establish criteria for obtaining educator licenses.

(2) The purpose of this rule is to establish standards for educator preparation programs for:

- (a) School Psychologists;
- (b) Audiologists;
- (c) Speech-Language Pathologists;
- (d) Speech-Language Technicians;
- (e) School Counselors; and
- (f) School Social Workers.

R277-306-2. School Psychologist Preparation Programs.

(1) A Utah institution of higher education may seek approval by the Board for a school psychologist preparation program if the program:

(a) results in a masters degree or higher in school psychology;

(b) meets the 2010 Standards for Graduate Preparation of School Psychologists created by the National Association of School Psychologists (NASP);

(c) prepares candidates to provide comprehensive and integrated services across the ten general domains of school psychology as defined in the 2010 Model for Comprehensive and Integrated School Psychological Services;

(d) prepares candidates to follow the 2010 Principles for Professional Ethics created by NASP; and

(e) includes school-based clinical experiences for a candidate to observe, practice skills, and reflect on practices that:

(i) are significant in number, depth, breadth, and duration; and

(ii) are progressively more complex.

(2) For a program applicant accepted after January 1, 2020, a school psychologist preparation program shall require multiple opportunities for a program applicant to successfully demonstrate the application of knowledge and skills gained through the program in a school-based setting in each of the following:

(a) administering varied models and methods of assessment and data collection for:

(i) identifying strengths and needs of students;

(ii) developing effective services and programs for students; and

(iii) measuring progress and outcomes for students;

(b) implementing varied models and strategies of consultation, collaboration, and communication with individuals, families, groups, and systems;

(c) implementing varied strategies that promote social-emotional functioning and mental health in students; and collecting and analyzing data for evaluation and support of effective practices at the individual, group, and systems levels.

(3) An individual that holds the Nationally Certified School Psychologist (NCSP) credential issued by NASP meets the out of state licensing requirement for a professional school psychologist license area of concentration detailed in Subsection R277-301-5(3)(c)(ii).

R277-306-3. School Audiologist Preparation Program.

(1) A Utah institution of higher education may seek approval by the Board for a school audiologist preparation program if the program:

(a) is accredited by the Council on Academic Accreditation in Audiology and Speech-Language Pathology; and

(b) prepares candidates to provide comprehensive and integrated services in a school setting as detailed in the 2018 Scope of Practice in Audiology created by the American Speech-Language-Hearing Association;

(2) An individual that completes a program accredited by the Council on Academic Accreditation in Audiology and Speech-Language Pathology outside of Utah qualifies for an associate license with an associate school audiologist license area of concentration detailed in Subsections R277-301-4(5) and (6).

(3) An individual that holds a current Certificate of Clinical Competence in Audiology (CCC-A) issued by the American Speech-Language-Hearing Association meets the out of state licensing requirement for a professional audiologist license area of concentration detailed in Subsection R277-301-5(3)(c)(ii).

R277-306-4. Speech-Language Pathologist (SLP) Preparation Program.

(1) A Utah institution of higher education may seek approval by the Board for a speech-language pathologist (SLP) preparation program if the program:

(a) is accredited by the Council on Academic Accreditation in Audiology and Speech-Language Pathology; and

(b) prepares candidates to provide comprehensive and integrated services in a school setting as detailed in the 2016 Scope of Practice in Speech-Language Pathology created by the American Speech-Language-Hearing Association.

(2) An individual that completes a program accredited by the Council on Academic Accreditation in Audiology and Speech-Language Pathology outside of Utah qualifies for an associate license with a speech-language pathologist license area of concentration detailed in Subsections R277-301-4(5) and (6).

(3) An individual that holds a current Certificate of Clinical Competence in Speech-Language Pathology (CCC-SLP) issued by the American Speech-Language-Hearing Association meets the out of state licensing requirements for a professional speech-language pathologist license area of concentration detailed in Subsection R277-301-5(3)(c)(ii).

R277-306-5. Speech-Language Technician (SLT) Preparation Program.

(1) The Superintendent shall create and administer an SLT preparation program that:

(a) requires applicants to hold a bachelor's degree in communication disorders or the equivalent;

(b) requires significant clinical experiences under the supervision of an individual holding a professional speech-language pathologist license area of concentration; and

(c) prepares candidate to provide services in a school setting as detailed in the Utah State Board of Education Handbook for Speech-Language Technicians Working in Utah Public Schools.

(2) The Superintendent shall periodically review and revise the handbook for SLTs referenced above.

R277-306-6. School Counselor Preparation Programs.

(1) A Utah institution of higher education may seek approval by the Board for a school counselor preparation program if the program:

(a) prepares candidates to meet the Utah Education School Counselor Standards detailed in Rule R277-530;

~~(b)(i) results in a master's degree in school counseling; or~~
(ii) requires a master's degree or higher from a regionally accredited institution in a related field for entrance into the program;

~~(b)(c) aligns with the 2016 Council for Accreditation of Counseling & Related Educational Program Standards; and~~

~~(e)(d) requires candidates to [complete—the requirements] demonstrate all competencies required for the College and Career Readiness Certificate.~~

(2) For a program applicant accepted after January 1, 2020, a school counselor preparation program shall require multiple opportunities for a program applicant to successfully demonstrate application of knowledge and skills gained through the program in a school-based setting in each of the following:

(a) collaborating with learners, families, colleagues, and community members to build or implement a shared vision and supportive professional culture focused on student growth and success;

(b) delivering a sequential school counseling curriculum aligned with the Utah Model for College and Career Readiness School Counseling Program;

(c) leading individuals and groups of students and their parents or guardians through the development of educational and career plans;

(d) counseling individuals and small groups of students with identified needs and concerns;

(e) developing or maintaining a crisis prevention/youth protection response plan; and

(f) collecting and analyzing data for the purpose of accountability and program evaluation.

R277-306-7. School Social Worker Preparation Programs.

(1) A Utah institution of higher education may seek approval by the Board for a school social worker preparation program if the program:

- (a) results in a masters of social work degree;
- (b) is accredited by the Council of Social Work Education;
- (c) includes school-based clinical experiences for a candidate to observe, practice skills, and reflect on practice that:
 - (i) are significant in number, depth, breadth, and duration; and
 - (ii) are progressively more complex;
 - (d) requires demonstration of competency in:
 - (i) knowledge of the role of a school social worker in furthering the educational mission of an LEA;
 - (ii) applying theoretical social work concepts and practical skills to the k-12 educational setting, including:
 - (A) social, emotional, family, and community assessment;
 - (B) individual, group, and family counseling;
 - (C) casework; and
 - (D) crisis intervention;
 - (iii) knowledge and application of rules regarding data and record keeping that apply to data available in a school, including:
 - (A) the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g; and
 - (B) Title 53E, Chapter 9, Student Privacy and Data Protection;
 - (iv) knowledge of laws regarding disabilities and their application to school social worker practices and the school setting, including:
 - (A) the IDEA; and
 - (B) the Americans with Disabilities Act of 1990, 42 U.S.C. 12101;
 - (v) utilizing information from assessments in an educational setting to develop student focused programs and interventions;
 - (vi) implementation of evidence-based curriculum in response to current social and emotional aspects of education; and
 - (vii) providing and advocating for services that support the social and emotional aspects of education;
 - (e) requires multiple opportunities for a program applicant admitted after January 1, 2020 to successfully demonstrate application of knowledge and skills gained through the program in a school-based setting in each of the following areas:
 - (i) utilizing information from assessments in the development of student-focused and system-focused programs and interventions in a school setting;
 - (ii) counseling individuals and small groups of students with identified needs and concerns;
 - (iii) implementing varied models and strategies of consultation, collaboration, and communication with teachers, individuals, and families; and
 - (iv) developing or updating a crisis prevention/youth protection response plan.
 - (2) An individual holding a licensed certified social worker "CSW" license or licensed clinical social worker "LCSW" license through the Division of Occupational and Professional Licensing in accordance with Rule R156-60a qualifies for an associate educator license with an associate school social worker license area of concentration detailed in Section R277-301-4 if the individual, no more than one calendar year prior to the application:

(a) completes a criminal background check, including review of any criminal offenses and clearance in accordance with Rule R277-214; and

(b) completes the educator ethics review described in Rule R277-302.

(3)(a) The Superintendent shall work with Utah universities and LEAs to create and administer a non-degree professional license preparation program for individuals described in Subsection (2) that meets all the requirements of Subsections (1)(c) through (1)(e) above.

KEY: preparation, psychologists, audiologists, speech-language pathologists, speech-language technicians, counselors

Date of Enactment or Last Substantive Amendment: ~~January 14, 2019~~ 2020

Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-6-201

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R277-326	Filing No. 52775

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R277-326. Early Learning Professional Learning Grant Program
3. Purpose of the new rule or reason for the change:
As a result of H.B. 114, Early Learning Training and Assessment Amendments passed in the 2020 General Session, new Rule R277-326 has been proposed to meet the statutory requirements of the State Board to provide the process and funding distribution of the professional learning grant created by H.B. 114 (2020).
4. Summary of the new rule or change:

The summary of this rule is to provide the required elements for the Early Learning Professional Learning Grant program including eligibility criteria that outlines the need to have an early learning plan to qualify; and a formula for the grant distribution that is based on an local education agency's (LEA) proportionate amount of pre-k to grade 3 teachers to the statewide total.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

This proposed rule is not expected to have independent fiscal impacts on state government revenues or expenditures. H.B. 114 (2020) required the changes included in the new rule.

B) Local governments:

This proposed rule is not expected to have independent fiscal impact on local governments' revenues or expenditures. H.B. 114 (2020) required the changes included in the new rule.

C) Small businesses ("small business" means a business employing 1-49 persons):

This proposed rule is not expected to have independent fiscal impact on small businesses' revenues or expenditures. H.B. 114 (2020) required the changes included in the new rule.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This proposed rule is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. H.B. 114 (2020) required the changes included in the new rule.

F) Compliance costs for affected persons:

There are no independent compliance costs for affected persons. H.B. 114 (2020) required the changes included in the new rule.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased

revenues per year. This proposed rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This proposed rule has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

B) Name and title of department head commenting on the fiscal impacts:

Sydnee Dickson, State Superintendent

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Article X, Section 3	Subsection 53E-3-401(4)	Section 53F-5-214
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/01/2020

10. This rule change MAY become effective on: 07/08/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	05/15/2020
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R277. Education, Administration.

R277-326. Early Learning Professional Learning Grant Program.

R277-326-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Section 53F-5-214, which directs the Board to make rules regarding the required elements of the Early Learning Professional Learning Grant and a formula to determine an LEA's grant amount.

(2) The purpose of this rule is to provide:

(a) the required elements for the Early Learning Professional Learning Grant program including eligibility criteria; and

(b) a formula for the grant distribution.

R277-326-2. Definitions.

(1) "Evidence-based" means the same as the term is defined in Subsection R277-406-2(3).

(2) "Focused" means professional learning that is targeted to strategies that align with an LEA's plan and goals that would best support improving outcomes.

(3) "Job-embedded" means learning that is during the workday and designed to enhance instructional practices with the intent of improving student learning outcomes.

(4) "Professional learning" means the same as the term is defined in Subsection 53G-11-303(1).

(5) "Sustained" means multiple professional learning sessions with ongoing support for implementation of professional learning for long-term change.

R277-326-3. Eligibility and Application.

(1) All LEAs are eligible to apply for the Early Learning Professional Learning Grant.

(2) To receive grant funds, an LEA shall submit an application as part of the LEAs Early Learning Plan as described in Section R277-406-4.

(3) An LEA shall include in the application to the Superintendent the LEA's plan:

(a) for the types of professional learning opportunities, the LEA plans to utilize including:

(i) comprehensive professional learning opportunities as described in Section 53G-11-303(2); and

(ii) job-embedded coaching.

(b) how the LEA intends to connect professional learning to the LEA's Early Learning Plan goals; and

(c) how the LEA intends to increase benchmark assessment scores and related outcomes through professional learning opportunities.

(4) An LEA shall only use sustained professional learning opportunities that are evidence-based and focused.

R277-326-4. Distribution and Use of Funds.

(1) The Superintendent shall distribute the Early Learning Professional Learning Grant funds as follows:

(a) a per teacher allotment shall be calculated by dividing the total amount of grant funds by the total number of preschool through grade 3 teachers of all applicants;

(b) an LEA shall receive a grant amount equal to the product of the per teacher allotment described in Subsection (a) and the total number of preschool through grade 3 teachers in the LEA; and

NOTICES OF PROPOSED RULES

(c) if an LEA's Early Learning Plan is denied or an LEA chooses to forego any grant funds, the grant funds may be reallocated to all other eligible LEAs receiving grant funds as described in Subsections (1)(a) and (b).

(2) For purposes of calculating a grant amount in Subsection (1), an LEA shall determine the LEA's total number of preschool through grade 3 teachers by using employee data from the previous school year of the application school year.

(3) An LEA may use the grant funds for the following purposes:

- (a) teacher stipends to attend trainings;
 - (b) presenter fees;
 - (c) coaching supports;
 - (d) substitute teachers;
 - (e) to hire a coach or specialist; and
 - (f) supplies and materials for teacher professional learning.
- (4) An LEA may not use grant funds for:
- (a) the purchase of:
 - (i) property;
 - (ii) equipment;
 - (iii) other services; or
 - (iv) student materials and supplies; or
 - (b) travel related expenses.

(5) An LEA shall use the grant funds by the end of the fiscal year in which the funds are received.

KEY: professional learning; prek-3, early learning, teacher development

Date of Enactment or Last Substantive Amendment: 2020
Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-5-214

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R277-327	Filing No. 52776

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R277-327. School Leadership Development Grant
3. Purpose of the new rule or reason for the change:
As a result of S.B. 99, School Leadership Development Amendments passed in the 2020 General Session, new Rule R277-327 have been created to outline the procedure and funding distribution for a school leadership development grant as created by S.B. 99 (2020).
4. Summary of the new rule or change:
This rule establishes the definition and parameters for a mentoring program requirements for new principals; creates the requirements for the grant application and award procedures including a formula for determining an eligible applicant's grant award amount for both a planning grant and a competitive implementation grant; establishes performance measures and reporting requirements for a grant recipient; and specifies what a grant recipient may use a grant award for.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This proposed rule is not expected to have independent fiscal impact on state government revenues or expenditures. S.B. 99 (2020) required the passage of this rule.
B) Local governments:
This proposed rule is not expected to have independent fiscal impact on local governments' revenues or expenditures. S.B. 99 (2020) required the passage of this rule.
C) Small businesses ("small business" means a business employing 1-49 persons):
This proposed rule is not expected to have independent fiscal impact on small businesses' revenues or expenditures. S.B. 99 (2020) required the passage of this rule.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This proposed rule is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. S.B. 99 (2020) required the passage of this rule.

F) Compliance costs for affected persons:

There are no independent compliance costs for affected persons. S.B. 99 (2020) required the passage of this rule.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This proposed rule has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

B) Name and title of department head commenting on the fiscal impacts:

Sydnee Dickson, State Superintendent

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Article X, Section 3	Subsection 53E-3-401(4)	Section 53F-5-214
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/01/2020

10. This rule change MAY become effective on: 07/08/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	05/15/2020
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R277. Education, Administration.

R277-327. School Leadership Development Grant.

R277-327-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Section 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
 - (c) Section 53F-5-214, which directs the Board to make rules establishing the requirements and parameters for the school leadership grant.
- (2) The purpose of this rule is to establish:
 - (a) mentoring program requirements for new principals;
 - (b) grant application and award procedures including a formula for determining an eligible applicant's grant award amount;
 - (c) performance measures and reporting requirements for a grant recipient;
 - (d) principal leadership standards and competencies;
 - (e) professional learning activities to improve principal leadership for which a grant recipient may use a grant award.

R277-327-2. Definitions.

- (1) "Components of programming" means the same as the list of allowable uses described in Subsection 53F-5-214(3)(a) and:
 - (i) leader standards;
 - (ii) preservice preparation;
 - (iii) selective hiring and placement;
 - (iv) job-embedded evaluation and support; and
 - (v) systems and capacity for supporting the leadership pipeline.
- (2) "Eligible applicant" means the same as the term is defined in Subsection 53F-5-214(1)(c).
- (3) "Evidence-based" means a strategy that has demonstrated a statistically significant effect on improving outcomes.
- (4) "Mentoring program" means a program designed by the eligible applicant that contains all required components specified by the Superintendent.
- (5) "Needs assessment" means the relevant assessment chosen by the Superintendent.
- (6) "Principal" means the same as the term is defined in Subsection 53F-5-214(1)(f).
- (7) "Professional learning activities" means the same as the activities described in Subsection 53F-5-214(3).
- (8) "Standards and competencies" means:
 - (a) the competencies described in Section R277-305-4;
 - (b) the Utah Educational Leadership Standards approved by the Board; and
 - (c) other knowledge, skills, and dispositions as determined by the eligible applicant.

R277-327-3. School Leadership Development Planning Grant--Eligibility and Application.

- (1) An eligible applicant may apply for a planning grant in preparation for a full plan and receiving a School Leadership implementation grant as described in Section R277-327-4.

(2) A planning grant awarded under Subsection (1) shall be \$15,000 for an eligible applicant pursuant to the requirements described in Subsection (3).

(3) In order to qualify for a planning grant, an eligible applicant shall submit to the Superintendent the following by July 1:

- (a) evidence the eligible applicant has formed a school leadership development team;
- (b) a completed planning grant application including:
 - (i) a school leadership development purpose statement;
 - (ii) a list of the eligible applicant's school leadership development team including membership and roles;
 - (iii) a timeline for actions to develop the full plan by December 1 of the year the grant is awarded including within the School Leadership Development Workshops; and
 - (iv) a budget table with justification for each budget item; and
- (c) a commitment to attend and participate in the School Leadership Development planning grant workshops held by the Superintendent.
- (4) If an eligible applicant receives a planning grant, the eligible applicant shall submit an application for a School Leadership Implementation Grant, as described in Section R277-327-4, by the deadline required by the Superintendent.
 - (a) An eligible applicant that fails to submit a School Leadership Development implementation grant as required in Subsection (4)(a) shall reimburse funds awarded under Subsection (2).

R277-327-4. School Leadership Development Implementation Grant--Eligibility and Application.

- (1) An eligible applicant may apply for an implementation grant of the eligible applicant's full plan.
- (2) An eligible applicant shall submit an application for an implementation grant by December 1 including:
 - (a) the requirements described in Subsection R277-327-3(a), (b)(i), (b)(ii), (b)(iv) and;
 - (b) a timeline of actions for a 5-year period including:
 - (i) a detailed timeline of each activity for year 1; and
 - (ii) a high-level timeline of activities for years 2-5;
 - (c) a commitment to attend and participate in the School Leadership Development workshops held by the Superintendent;
 - (d) specific plans for a mentoring program and professional learning activities;
 - (e) a baseline report of the data described in Subsection 53F-5-214(5)(b);
 - (f) a completed needs assessment; and
 - (g) an outline of the eligible applicant's evidence-based components of programming including the standards and competencies the eligible applicant will require.
- (3) The Superintendent shall score and rank each complete application based on the following criteria:
 - (a) the eligible applicant's ability to develop and sustain a continuous principal pipeline;
 - (b) the eligible applicant's demonstration of greatest ability for impact; and
 - (c) a demonstration that both (a) and (b) are based upon:
 - (i) number of aspiring, new, or experienced principals;
 - (ii) identification of the most impactful portions of an eligible applicant's principal pipeline;
 - (iii) demonstration that the eligible applicant's plan prioritizes the most impactful components for the eligible applicant's context;

(iv) the eligible applicant's use of a needs assessment in overall plan development; and

(v) identification and planned use of evidence-based practices.

(4) The Superintendent shall select the approved applications to be submitted to the Board and notify all applicants within 45 days.

(5) The Board shall approve or deny each eligible applicant's application that has been submitted by the Superintendent.

(6) If the Board denies an eligible applicant's application that has been submitted by the Superintendent, the eligible applicant may amend and re-submit the eligible applicant's application to the Superintendent until the Board approves the application.

(7) An eligible applicant with an approved application may receive up to the eligible applicant's requested amount up to \$250,000 per year.

R277-327-5. Reporting Requirements.

(1) An eligible applicant that has received a School Leadership Implementation Grant as described in Section R277-327-4, shall submit an annual report by May 1 in the form described by the Superintendent.

(2) An eligible applicant shall report on:

(a) the data described in 53F-5-214(5)(b);

(b) an accounting of expenditures for the previous year in comparison to the planned budget for that year;

(c) an outline of any needed adjustments to the eligible applicant's 5-year plan based upon outcomes and data from the previous year and

(d) a detailed implementation plan for the upcoming year.

(3) The Superintendent shall create an evaluation team to:

(a) assist an eligible applicant in collecting and reporting required data;

(b) provide determination of continued eligibility; and

(c) analyze and report on the eligible applicant's annual report and other data.

(4) If the evaluation team finds an eligible applicant to be non-compliant with this rule or state code, the eligible applicant is subject to corrective action as described in R277-114.

KEY: school leadership, principal, mentorship

Date of Enactment or Last Substantive Amendment: 2020

Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-5-214

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R277-406	Filing No. 52777	

Agency Information

1. Department:	Education
Agency:	Administration
Building:	Board of Education
Street address:	250 E 500 S
City, state:	Salt Lake City, UT 84111
Mailing address:	PO Box 144200

City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R277-406. Early Literacy Program and Benchmark Reading Assessment
3. Purpose of the new rule or reason for the change:
As a result of H.B. 114, Early Learning Training and Assessment Amendments passed in the 2020 General Session, amendments to Rule R277-406 have been prepared to update the early literacy plans to include early mathematics as required by H.B. 114 (2020).
4. Summary of the new rule or change:
The amendments include renaming the Early Literacy Plan the Early Learning Plan; updating all references to the "benchmark reading assessment" to be the "benchmark assessment" and expand the definition of "benchmark assessment" to include an early mathematics assessment. This rule also includes a requirement for local education agencies (LEAs) to meet a statewide target growth percentage for the early mathematics assessment to mirror the same requirement for early literacy assessments; this rule also defines the components of mathematics learning.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. H.B. 114 (2020) required the changes included in these amendments.
B) Local governments:
This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. H.B. 114 (2020) required the changes included in these amendments.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule change is not expected to have independent fiscal impact on small businesses' revenues or expenditures. H.B. 114 (2020) required the changes included in these amendments.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an *agency*):

This rule change is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. H.B. 114 (2020) required the changes included in these amendments.

F) Compliance costs for affected persons:

There are no independent compliance costs for affected persons. H.B. 114 (2020) required the changes included in these amendments.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0

Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

B) Name and title of department head commenting on the fiscal impacts:

Sydnee Dickson, State Superintendent

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Article X, Section 3	Section 53E-3-521	Subsection 53E-3-401(4)
Subsection 53F-2-503(14)(a)	Section 53E-4-307	Section 53E-4-307.5

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members.)

Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	07/01/2020
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10. This rule change MAY become effective on:	07/08/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	05/15/2020
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R277. Education, Administration.

R277-406. Early Learning[~~literacy~~] Program and Benchmark Reading-~~Assessments~~.

R277-406-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Subsection 53F-2-503(14)(a), which directs the Board to develop rules for implementing the Early Learning[~~literacy~~] Program;~~and~~

~~(d) Section 53E-3-521, which requires the board to define the components of the early mathematics plan and establish a state-wide target using data from the mathematics benchmark assessment;~~

~~(~~d~~)e) Section 53E-4-307, which requires the Board to approve a benchmark assessment for statewide use to assess the reading competency of students in grades one, two, and three[-]; and~~

~~(f) Section 53E-4-307.5, which requires the Board to approve a benchmark assessment statewide for use to assess the mathematics competency of students in grades one, two, and three.~~

(2) The purpose of this rule is to outline the responsibilities of the Superintendent and LEAs for implementation of Section 53F-2-503 and the Board's administration of Early Learning[~~literacy~~] in the state, including to:

(a) set expectations for LEA Early Learning[~~literacy~~] Plans;

(b) establish timelines for LEA Early Learning[~~literacy~~] Plans;

(c) provide definitions and designate assessments required in Section 53E-4-307 ~~and 53E-4-307.5~~;

(d) provide testing reporting windows, and timelines; and

(e) require LEAs to submit student reading ~~and mathematics~~ assessment data to the Board.

R277-406-2. Definitions.

(1) "Benchmark reading assessment" means the Acadience Reading assessment that:

(a) is given three times each year;

(b) gives teachers information to:

(i) plan appropriate instruction; and

(ii) evaluate the effects of instruction; and

(c) provides data about the extent to which students are prepared to be successful on an end of year criterion referenced test.

(2) "Benchmark mathematics assessment" means the Board approved assessment that is administered in accordance with the requirements established by the Superintendent.

(3) "Components of early mathematics" means the key areas of mathematical learning including:

(a) conceptual understanding;

(b) procedural fluency;

(c) strategic and adaptive mathematical thinking; and

(d) productive disposition.

(4) "Conceptual understanding" means the comprehension and connection of concepts, operations, and relations.

~~(2)~~⁵ "Evidence-based" means a strategy that has demonstrated a statistically significant effect on improving student outcomes.

~~(3)~~⁶ "Parental notification requirements" means notice by any reasonable means, including electronic notice, notice by telephone, written notice, or personal notice.

~~(4)~~⁷ "Plan" means the literacy and mathematics proficiency improvement plan required in the Early Learning[~~literacy~~] Program that is submitted by a public school district or a charter school, as required in Subsection 53F-2-503(4) and 53G-7-218.

~~(8)~~ "Procedural fluency" means the meaningful, flexible, accurate, and efficient use of procedures to solve problems.

~~(9)~~ "Productive disposition" means a student who sees mathematics as useful and worthwhile while exercising a steady effort to learn mathematics.

~~(5)~~¹⁰ "Program money" means the same as that term is defined in Section 53F-2-503.

~~(6)~~¹¹ "[Reading]Scoring below [~~grade level~~]benchmark" means that a student:

(a) performs below the benchmark score on the benchmark reading or mathematics assessment; and

(b) requires additional instruction beyond that provided to typically-developing peers in order to close the gap between the student's current level of [~~reading~~]achievement and that expected of all students in that grade.

~~(7)~~¹² "R[~~reading~~]mediation interventions" means reading or mathematics instruction or [~~reading~~]activities, or both, given to students in addition to their regular [~~reading~~]instruction, during another time in the school day, outside regular instructional time, or in the summer, which is focused on specific needs as identified by reliable and valid assessments.

~~(13)~~ "Strategic and adaptive mathematical thinking" means the ability to formulate, represent, and solve mathematical problems with the capacity to justify the logic used to arrive at the solution.

~~(8)~~¹⁴ "Utah eTranscript and Record Exchange" or "UTREx" means the same as that term is defined in Section R277-404-2.

R277-406-3. Benchmark Reading and Mathematics Assessments.

(1) An LEA shall administer the benchmark reading ~~and mathematics~~ assessments in grade 1, grade 2, and grade 3 within the following testing windows:

NOTICES OF PROPOSED RULES

- (a) the first benchmark before September 30;
- (b) the second benchmark between December 1 and January 31; and
- (c) the third benchmark between the middle of April and June 15.

(2) An LEA shall report benchmark reading and mathematics assessment results to the Superintendent by:

- (a) October 30;
- (b) the last day of February; and
- (c) June 30.

(3) If the benchmark reading or mathematics assessment indicates a student is ~~[reading]~~scoring below ~~[grade level]~~benchmark: ~~[-]~~
(a) for reading, the LEA shall implement the parental notification requirements and evidence-based reading remediation interventions described in Section 53E-4-307[-];

(b) for mathematics, the LEA shall implement a remediation intervention as required by the Superintendent.

(4) An LEA shall report benchmark reading and mathematics assessment results to parents of students in grade 1, grade 2, and grade 3 by:

- (a) October 30;
- (b) the last day of February; and
- (c) June 30.

(5) An LEA shall submit to UTREx the following information from the benchmark reading and mathematics assessment:

(a) whether or not each student received ~~[reading]~~remediation intervention; and

(b) UTREx Special Codes related to the benchmark reading assessment.

(6) An LEA that selects the reading assessment technology shall use the assessment consistent with Board directives.

R277-406-4. Early Learning~~[iteracy]~~ Plans -- LEA and Superintendent Requirements - Timelines.

(1) Beginning with the 2019-20 school year, to receive program money, an LEA shall submit:

- (a) a plan in accordance with Subsections:
 - ~~(i) 53F-2-503(4); and~~
 - ~~(iii) 53G-7-218; and~~
- (b) a plan that contains the components of early mathematics; and

~~(b) other required materials within established deadlines.~~

(2)(a) Any time before July 1, an LEA may submit its plan to the Superintendent for pre-approval; and

(b) For each LEA that submits a plan for pre-approval, the Superintendent shall provide feedback in preparation for the LEA submitting the plan to its local board;

(3) An LEA shall submit a final plan to the Superintendent ~~[by]~~no later than ~~[August 15]~~September 1st by 5:00 p.m. including: ~~[-]~~

- (a) proof that:
 - (i) the LEA's governing board reviewed and approved the LEA's plan in an open and public meeting; and
 - (ii) the plan has been uploaded to the appropriate system as required by the Superintendent; and

~~[-]~~
~~(4) Notwithstanding Subsection (3), by September 1 an LEA shall provide to the Superintendent:~~

~~(a) proof that the LEA's governing board reviewed and approved the LEA's plan in an open meeting; and~~

~~(b) if necessary, a revised plan reflecting changes made to the LEA's plan by the LEA's governing board.~~

~~(5) Within three weeks of an LEA submitting a final, local board-approved plan to the Superintendent, the Superintendent shall~~

~~notify the LEA if the plan has been approved or if modifications to the plan are required.~~

~~(6) If the Superintendent does not approve an LEA's plan, the LEA may, by October 15:~~

~~(a) incorporate needed changes or provisions;~~

~~(b) obtain approval for the amended plan from the LEA's governing board; and~~

~~(c) resubmit the amended plan in accordance with Subsection (3)(a) of this part.[- and]~~

~~(7) If an LEA timely resubmits a plan that includes the required modifications, the Superintendent shall approve the plan by November 1.~~

~~(8) If an LEA fails to timely resubmit an acceptable plan by [November]October 15, the LEA is not eligible for funding in the current school year.~~

~~(9) When reviewing an LEA plan for approval, the Superintendent shall evaluate:~~

~~(a) the extent to which the LEA's goals within the plan are ambitious, yet attainable; and~~

~~(b) whether the plan uses evidence-based curriculum, materials, and practices, which will support the LEA in meeting its growth goals.~~

~~(10) [All LEA plans]An LEA's goals, as outlined in the LEA's plan, shall be reported to the Superintendent using a digital reporting platform.~~

~~(11) An LEA shall report progress toward the goals outlined in the LEA's plan to the Superintendent by June 30 each year.~~

~~(12) In accordance with Section 53F-2-503 and 53G-7-218, a growth goal in an LEA's plan:~~

~~(a) is calculated using the percentage of students in an LEA's grades 1 through 3 who made typical, above typical, or well-above typical progress from the beginning of the year to the end of the year, as measured by the benchmark reading and mathematics assessment;[- and]~~

~~(b) sets the literacy target percentage of students in grades 1 through 3 making typical progress or better at a minimum of 60 percent[-]; and~~

~~(c) sets the mathematics target percentage of students in grades 1 through 3 making typical or better progress at a minimum set by the Superintendent beginning in the 2021-2022 school year.~~

~~(3) The Superintendent shall use the information provided by an LEA described in Subsection R277-406-4 to determine the progress of each student in grades 1 through 3 within the following categories:~~

~~(i) well-above typical;~~

~~(ii) above typical;~~

~~(iii) typical;~~

~~(iv) below typical; or~~

~~(v) well-below typical.~~

~~(4) If an LEA does not make sufficient progress toward its plan goals for two consecutive years, as defined in Subsection (5), the LEA shall be in the Board System of Support and required to participate in interventions to improve early literacy, early mathematics, or both.~~

~~(5) Accept as provided for in Subsection (6), [S]sufficient progress toward plan goals means the LEA meets:~~

~~(a) the LEA's growth goal, as described in Subsection 53F-2-503(4)(a)(v); and~~

~~(b) at least one of the LEA-designated goals addressing performance gaps, as described in Subsection 53F-2-503(4)(a)(vi).~~

~~(6) For the 2020-2021 school year, an LEA shall provide two local goals for literacy and zero local goals for mathematics.~~

~~(7) For the 2020-2021 school year, an LEA shall provide two local goals for literacy and zero local goals for mathematics.~~

~~(8) For the 2020-2021 school year, an LEA shall provide two local goals for literacy and zero local goals for mathematics.~~

~~(9) For the 2020-2021 school year, an LEA shall provide two local goals for literacy and zero local goals for mathematics.~~

~~(10) For the 2020-2021 school year, an LEA shall provide two local goals for literacy and zero local goals for mathematics.~~

~~(11) For the 2020-2021 school year, an LEA shall provide two local goals for literacy and zero local goals for mathematics.~~

~~(12) For the 2020-2021 school year, an LEA shall provide two local goals for literacy and zero local goals for mathematics.~~

([6]7) The Superintendent shall establish the strategies, interventions, and techniques for schools that are in the Board System of Support to help schools achieve early ~~literacy~~ learning goals.

KEY: reading, improvement, goals

Date of Enactment or Last Substantive Amendment: ~~July 2, 2019~~ 2020

Notice of Continuation: June 7, 2018

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-3-521; 53E-4-307; 53E-4-307.5; 53F-2-503(14)(a)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-419	Filing No. 52769

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R277-419. Pupil Accounting
3. Purpose of the new rule or reason for the change:
The reason for the amendments is to update provisions and address local education agency (LEA) funding during the school closure caused by the COVID-19 pandemic.
4. Summary of the new rule or change:
The amendments clarify that Utah State Board of Education (USBE) will calculate student membership during the school closure period by taking an average of an LEA's membership for the remainder of the 19-20 school year. The amendments also update language regarding audits and monitoring and incorporate USBE's continuity of education plan form by reference.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:
 This rule change is not expected to have material fiscal impact on state government revenues or expenditures. Due to school closures after March 26, 2020, it would be difficult to calculate attendance for purposes of determining membership after that date. This rule clarifies the intent of schools submitting continuity of education plans, which is for schools to provide students with services until the end of each LEA's 2019-2020 school calendar. This rule change provides USBE the flexibility needed to determine an LEA's membership based on the dates for which the agency has data, which is July 1, 2019 through March 13, 2020.

B) Local governments:
 This rule change is not expected to have material fiscal impact on local governments' revenues or expenditures. Due to school closures after March 26, 2020, it would be difficult to calculate attendance for purposes of determining membership after that date. This rule clarifies the intent of schools submitting continuity of education plans, which is for schools to provide students with services until the end of each LEA's 2019-2020 school calendar. This rule change provides USBE the flexibility needed to determine an LEA's membership based on the dates for which the agency has data, which is July 1, 2019 through March 13, 2020.

C) Small businesses ("small business" means a business employing 1-49 persons):
 This rule change is not expected to have material fiscal impact on small businesses' revenues or expenditures. Due to school closures after March 26, 2020, it would be difficult to calculate attendance for purposes of determining membership after that date. This rule clarifies the intent of schools submitting continuity of education plans, which is for schools to provide students with services until the end of each LEA's 2019-2020 school calendar. This rule change provides USBE the flexibility needed to determine an LEA's membership based on the dates for which the agency has data, which is July 1, 2019 through March 13, 2020.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
 There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have material fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. Due to school closures after March 26, 2020, it would be difficult to calculate attendance for purposes of determining membership after that date. This rule clarifies the intent of schools submitting continuity of education plans, which is for schools to provide students with services until the end of each LEA's 2019-2020 school calendar. This rule change provides USBE the flexibility needed to determine an LEA's membership based on the dates for which the agency has data, which is July 1, 2019 through March 13, 2020.

F) Compliance costs for affected persons:

There are no expected compliance costs for affected persons. Due to school closures after March 26, 2020, it would be difficult to calculate attendance for purposes of determining membership after that date. This rule clarifies the intent of schools submitting continuity of education plans, which is for schools to provide students with services until the end of each LEA's 2019-2020 school calendar. This rule change provides USBE the flexibility needed to determine an LEA's membership based on the dates for which the agency has data, which is July 1, 2019 through March 13, 2020.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0

Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

B) Name and title of department head commenting on the fiscal impacts:

Sydnee Dickson, State Superintendent

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Article X, Section 3	Section 53G-4-404	Subsection 53E-3-401(4)
Subsection 53E-3-501(1)(e)	Subsection 53G-5-404(4)	

Incorporations by Reference Information

8. A) This rule adds, updates, or removes the following title of materials incorporated by references:

	First Incorporation
Official Title of Materials	Continuity of Education Plan Form

Incorporated (from title page)	
Publisher	Utah State Board of Education
Date Issued	May 7, 2020
Issue, or version	Version 1

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	07/01/2020
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10. This rule change MAY become effective on:	07/08/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	05/14/2020
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R277. Education, Administration.

R277-419. Pupil Accounting.

R277-419-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;
 - (c) Subsection 53E-3-501(1)(e), which directs the Board to establish rules and standards regarding:
 - (i) cost-effectiveness;
 - (ii) school budget formats; and
 - (iii) financial, statistical, and student accounting requirements;
 - (d) Subsection 53E-3-602(2), which requires a local school board's auditing standards to include financial accounting and student accounting;
 - (e) Subsection 53E-3-301(3)(d), which requires the Superintendent to present to the Governor and the Legislature data on the funds allocated to LEAs;~~and~~

(f) Section 53G-4-404, which requires annual financial reports from all school districts~~[-]; and~~

(g) Subsection 53G-5-404(4), which requires charter schools to make the same annual reports required of other public schools.

(2) The purpose of this rule is to specify pupil accounting procedures used in apportioning and distributing state funds for education.

R277-419-2. Definitions.

(1) "Aggregate Membership" means the sum of all days in membership during a school year for eligible students enrolled in a public school.

(2) "Approved CTE course" means a course approved by the Board within the Career and Technical Education (CTE) Pathway areas of study.

(3) "Attendance validated program" means a program within an LEA that consists of eligible, enrolled public school students who physically attend school in a brick and mortar school.

(4) "Blended learning program" means a formal education program under the direction of an LEA in which a student learns through an integrated experience that is in part:

(a) through online learning, with some element of student control over time, place, path, or pace; and

(b) in a supervised brick-and-mortar school away from home.

(5) "Brick and mortar school" means a school where classes are conducted in a physical school building.

(6) "Competency based learning program" means an education program that provides instruction through competency-based education as defined in Section 53F-5-501.

(7) "Continuing enrollment measurement" means a methodology used to establish a student's continuing membership or enrollment status for purposes of generating membership days.

(8) "Data Clearinghouse" means the electronic data collection system used by the Superintendent to collect information required by law from LEAs about individual students at certain points throughout the school year to support the allocation of funds and accountability reporting.

(9) "Early graduation student" means a student who has an early graduation student education plan as described in Section R277-703-4.

(10) "Eligible student" means a student who satisfies the criteria for enrollment in an LEA, set forth in Section R277-419-~~5~~6.

(11) "Enrollment verification data" includes:

(a) a student's birth certificate or other verification of age;

(b) verification of immunization or exemption from immunization form;

(c) proof of Utah public school residency;

(d) family income verification; or

(e) special education program information, including:

(i) an individualized education program;

(ii) a Section 504 accommodation plan; or

(iii) an English learner plan.

(12)(a) "Home school" means the formal instruction of children in their homes instead of in an LEA.

(b) The differences between a home school student and an online student include:

(i) an online student may receive instruction at home, but the student is enrolled in a public school that follows state Core Standards;

(ii) an online student is:

NOTICES OF PROPOSED RULES

(A) subject to laws and rules governing state and federal mandated tests; and

(B) included in accountability measures;

(iii) an online student receives instruction under the direction of a highly qualified, licensed teacher who is subject to the licensure requirements of R277-502 and fingerprint and background checks consistent with R277-516 and R277-520;

(iv) instruction delivered in a home school course is not eligible to be claimed in membership of an LEA and does not qualify for funding under the Minimum School Program in Title 53F, Chapter 2, Minimum School Program Act.

(13) "Home school course" means instruction:

(a) delivered in a home school environment where the curriculum and instruction methods, evaluation of student progress or mastery, and reporting, are provided or administered by the parent, guardian, custodian, or other group of individuals; and

(b) not supervised or directed by an LEA.

(14)(a) "Influenza pandemic" or "pandemic" means a global outbreak of serious illness in people.

(b) "Influenza pandemic" or "pandemic" may be caused by a strain of influenza that most people have no natural immunity to and that is easily spread from person to person.

(15) "ISI-1" means a student who receives 1 to 59 minutes of YIC related services during a typical school day.

(16) "ISI-2" means a student who receives 60 to 179 minutes of YIC related services during a typical school day.

(17) "Learner validated program" means a program within an LEA that consists of eligible, enrolled public school students where the student receives instruction through:

(a) an online learning program;

(b) a blended learning program; or

(c) a competency based learning program.

(18)(a) "Membership" means a public school student is on the current roll of a public school class or public school as of a given date.

(b) A student is a member of a class or school from the date of entrance at the school and is placed on the current roll until official removal from the class or school due to the student having left the school.

(c) Removal from the roll does not mean that an LEA should delete the student's record, only that the student should no longer be counted in membership.

(19) "Minimum School Program" means the same as that term is defined in Section 53F-2-102.

(20) "Online learning program" means a program:

(a) that is under the direction of an LEA; and

(b) in which students receive educational services primarily over the internet.

(21) "Private school" means an educational institution that:

(a) is not an LEA;

(b) is owned or operated by a private person, firm, association, organization, or corporation; and

(c) is not subject to governance by the Board consistent with the Utah Constitution.

(22) "Program" means a course of instruction within a school that is designed to accomplish a predetermined curricular objective or set of objectives.

(23) "Resource" means a student who receives 1 to 179 minutes of special education services during a typical school day consistent with the student's IEP provided for under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Sec. 1400 et seq., amended in 2004.

(24) "Qualifying school age" means:

(a) a person who is at least five years old and no more than 18 years old on or before September 1;

(b) with respect to special education, a person who is at least three years old and no more than 21 years old on or before July 1;

(c) with respect to YIC, a person who is at least five years old and no more than 21 years old on or before September 1.

(25) "Retained senior" means a student beyond the general compulsory school age who is authorized at the discretion of an LEA to remain in enrollment as a high school senior in the year(s) after the student's cohort has graduated due to:

(a) sickness;

(b) hospitalization;

(c) pending court investigation or action; or

(d) other extenuating circumstances beyond the control of the student.

(26) "S1" means the record maintained by the Superintendent containing individual student demographic and school membership data in a Data Clearinghouse file.

(27) "S2" means the record maintained by the Superintendent containing individual student data related to participation in a special education program in a Data Clearinghouse file.

(28) "S3" means the record maintained by the Superintendent containing individual student data related to participation in a YIC program in a Data Clearinghouse file.

(29) "School" means an educational entity governed by an LEA that:

(a) is supported with public funds;

(b) includes enrolled or prospectively enrolled full-time students;

(c) employs licensed educators as instructors that provide instruction consistent with Section R277-502;

(d) has one or more assigned administrators;

(e) is accredited consistent with Section R277-410-3; and

(f) administers required statewide assessments to the school's students.

(30) "School day" means a minimum of two hours per day per session in kindergarten and a minimum of four hours per day in grades one through twelve, subject to the requirements described in Section R277-419-[4]5.

(31) "School membership" means membership other than in a special education or YIC program in the context of the Data Clearinghouse.

(32) "School of enrollment" means:

(a) a student's school of record; and

(b) the school that maintains the student's cumulative file, enrollment information, and transcript for purposes of high school graduation.

(33) "School year" means the 12 month period from July 1 through June 30.

(34) "Self-contained" means a public school student with an IEP or YIC, who receives 180 minutes or more of special education or YIC related services during a typical school day.

(35) "Self-Contained Resource Attendance Management (SCRAM)" means a record that tracks the aggregate membership of public school special education students for state funding purposes.

(36) "SSID" means Statewide Student Identifier.

(37) "Unexcused absence" means an absence charged to a student when:

(a) the student was not physically present at school at any of the times attendance checks were made in accordance with Subsection R277-419-6~~(3)~~(4); and

(b) the student's absence could not be accounted for by evidence of a legitimate or valid excuse in accordance with local board policy on truancy as defined in Section 53G-6-201.

(38) "Year end upload" means the Data Clearinghouse file due annually by July 15 from LEAs to the Superintendent for the prior school year.

(39) "Youth in custody (YIC)" means a person under the age of 21 who is:

(a) in the custody of the Department of Human Services;

(b) in the custody of an equivalent agency of a Native American tribe recognized by the United States Bureau of Indian Affairs and whose custodial parent or legal guardian resides within the state; or

(c) being held in a juvenile detention facility.

R277-419-3. Incorporation by Reference of Continuity of Education Plan Form.

(1) This rule incorporates by reference the Continuity of Education Plan form created by the Superintendent, which requires planning for services in the event of a school closure, including:

(a) e-learning;

(b) special education services;

(c) student meals;

(d) event planning; and

(e) staffing.

(2) A copy of the form is located at:

(a)

<http://schools.utah.gov/administrativerules/documentsincorporated;>

(b) the Utah State Board of Education.

R277-419-~~3~~4. Schools and Programs.

(1)(a) The Superintendent shall provide a list to each school detailing the required accountability reports and other state-mandated reports for the school type and grade range.

(b) All schools shall submit a Clearinghouse report to the Superintendent.

(c) All schools shall employ at least one licensed educator and one administrator.

(2)(a) A student who is enrolled in a program is considered a member of a public school.

(b) The Superintendent may not require programs to receive separate accountability and other state-mandated reports.

(c) A student reported under an LEA's program shall be included in the LEA's WPU and student enrollment calculations of the LEA's school of enrollment.

(d) A course taught at a program shall be credited to the appropriate school of enrollment.

(3) A private school or program may not be required to submit data to the Superintendent.

(4) A private school or program may not receive annual accountability reports.

R277-419-~~4~~5. Minimum School Days.

(1)(a) Except as provided in Subsection (1)(b) and Subsection 53F-2-102(4), an LEA shall conduct school for at least 990 instructional hours over a minimum of 180 school days each school year.

(b) an LEA may seek an exception to the number of school days described in Subsection (1)(a):

(i) except as provided in Subsection (1)(b)(ii), for a whole school or LEA as described in R277-121;

(ii) for a school closure due to snow, inclement weather, or other emergency as described in Section R277-419-1~~2~~4; or

(iii) for an individual student as described in Section R277-419-1~~1~~3.

(2)(a) An LEA may offer the required school days and hours described in Subsection (1)(a) at any time during the school year, consistent with the law.

(b) All school day calculations shall:

(i) exclude lunch periods and pass time between classes;

(ii) include recess periods; and

(iii) include alternative breakfast models where breakfast is consumed in class.

(c) Each school day that satisfies the minimum hourly instruction time described in Subsection R277-419-2(31), shall count as a school day, regardless of the number or length of class periods or whether or not particular classes meet.

(3)(a) An LEA shall plan for emergency, activity, and weather-related exigency time in its annual calendaring.

(b) If school is closed for any reason, the school shall make up the instructional time missed under the emergency or activity time as part of the minimum required time to qualify for full Minimum School Program funding.

(4) Minimum standards apply to all public schools in all settings unless Utah law or this rule provides for a specific exception.

(5) An LEA's governing board shall provide adequate contingency school days and hours in the LEA's yearly calendar to avoid the necessity of requesting a waiver except in the most extreme circumstances.

(6)(a) In addition to the allowance to use up to 32 instructional hours or four school days for professional learning described in Subsection 53F-2-102(~~6~~4), to provide planning and professional development time for staff, an LEA may hold school longer some days of the week and shorter other days so long as minimum school day requirements, as provided for in this Section R277-419-~~4~~5 and Subsection R277-419-2(32), are satisfied.

(b) A school may conduct parent-teacher and student Plan for College and Career Readiness conferences during the school day.

(c) Parent-teacher and college and career readiness conferences may only be held for a total of the equivalent of three full school days or a maximum of 16.5 hours for the school year.

(d) Student membership for professional development or parent-teacher conference days shall be counted as that of the previous school day.

(e) An LEA may designate no more than a total of 12 instructional days at the beginning of the school year, at the end of the school year, or both for the assessment of students entering or completing kindergarten.

(f) If instruction days are designated for kindergarten assessment:

(i) an LEA shall designate the days in an open meeting;

(ii) an LEA shall provide adequate notice and explanation to kindergarten parents well in advance of the assessment period;

(iii) qualified school employees shall conduct the assessment consistent with Section ~~[53F-4-205]~~53G-7-205; and

(iv) assessment time per student shall be adequate to justify the forfeited instruction time.

(g) The final decision and approval regarding planning time, parent-teacher and SEP conferences rests with an LEA, consistent with Utah law and Board administrative rules.

(h) Total instructional time and school calendars shall be approved by an LEA in an open meeting.

R277-419-[5]6. Student Membership Eligibility and Continuing Enrollment Measurements.

(1) A student may enroll in two or more LEAs at the discretion of the LEAs.

(2) A kindergarten student may only enroll in one LEA at a time.

(3) In order to generate membership for funding through the Minimum School Program for any clock hour of instruction on any school day, an LEA shall ensure that a student being counted by the LEA in membership:

(a) has not previously earned a basic high school diploma or certificate of completion;

(b) has not been enrolled in a YIC program with a YIC time code other than ISI-1 or ISI-2;

(c) does not have unexcused absences, which are determined using one of the continuing enrollment measurements described in Subsection (4);

(d) is a resident of Utah as defined under Section 53G-6-302;

(e) is of qualifying school age or is a retained senior;

(f)(i) is expected to attend a regular learning facility operated or recognized by an LEA on each regularly scheduled school day, if enrolled in an attendance validated program;

(ii) has direct instructional contact with a licensed educator provided by an LEA at:

(A) an LEA-sponsored center for tutorial assistance; or

(B) the student's place of residence or convalescence for at least 120 minutes each week during an expected period of absence, if physically excused from such a facility for an extended period of time, due to:

(i) injury;

(II) illness;

(III) surgery;

(IV) suspension;

(V) pregnancy;

(VI) pending court investigation or action; or

(VII) an LEA determination that home instruction is necessary;

(iii) is enrolled in an approved CTE course(s) on the campus of another state funded institution where such a course is:

(A) not offered at the student's school of membership;

(B) being used to meet Board-approved CTE graduation requirements under Subsection R277-700-6(14); and

(C) a course consistent with the student's SEOP/Plan for College and Career Readiness; or

(iv) is enrolled in a learner validated program under the direction of an LEA that:

(A) is consistent with the student's SEOP/Plan for College and Career Readiness;

(B) has been approved by the student's counselor; and

(C) includes regular instruction or facilitation by a designated employee of an LEA.

(4) An LEA shall use one of the following continuing enrollment measures:

(a) For a student primarily enrolled in an attendance validated program, the LEA may not count a student as an eligible

student if the eligible student has unexcused absences during all of the prior ten consecutive school days.

(b) For a student enrolled in a learner validated program, an LEA shall:

(i) adopt a written policy that designates a continuing enrollment measurement to document the continuing membership or enrollment status for each student enrolled in the learner validated program consistent with Subsection (3)(c);

(ii) document each student's continued enrollment status in compliance with the continuing enrollment policy at least once every ten consecutive school days; and

(iii) appropriately adjust and update student membership records in the student information system for students that did not meet the continuing enrollment measurement, consistent with Subsection (3)(c).

(5) The continuing enrollment measurement described in Subsection (4)(b) may include some or all of the following components, in addition to other components, as determined by an LEA:

(a) a minimum student login or teacher contact requirement;

(b) required periodic contact with a licensed educator;

(c) a minimum hourly requirement, per day or week, when students are engaged in course work; or

(d) required timelines for a student to provide or demonstrate completed assignments, coursework or progress toward academic goals.

(6) For a student enrolled in both attendance validated and learner validated programs, an LEA shall measure a student's continuing enrollment status using the methodology for the program in which the student earns the majority of their membership days.

(7)(a) An LEA desiring to generate membership for student enrollment in courses outlined in Subsection (3)(f)(iii), or to seek a waiver from a requirement(s) in Subsection (3)(f)(iii), shall submit an application for course approval by April 1 of the year prior to which the membership will be counted.

(b) An LEA shall be notified within 30 days of the application deadline if courses have been approved.

R277-419-[6]7. Student Membership Calculations.

(1)(a) Except as provided in Subsection (1)(b) or (1)(c), a student enrolled in only one LEA during a school year is eligible for no more than 180 days of regular membership per school year.

(b) An early graduation student may be counted for more than 180 days of regular membership in accordance with the student's early graduation student education plan.

(c) A student transferring within an LEA to or from a year-round school is eligible for no more than 205 days of regular membership per school year.

(2)(a) Except as provided in Subsection (2)(b), (2)(c), or (2)(d), a student enrolled in two or more LEAs during a school year is eligible for no more than 180 days of regular membership per school year.

(b) A student transferring to or from an LEA with a schedule approved under Subsection R277-419-[4]5(1)(b) is eligible for no more than 220 days of regular membership per school year.

(c) A student transferring to or from an LEA where the student attended or will attend a year-round school is eligible for no more than 205 days of regular membership per school year.

(d) If the exceptions in Subsections (2)(b) and (2)(c) do not apply but a student transfers from one LEA to another at least one

time during the school year, the student is eligible for regular membership in an amount not to exceed the sum of:

(i) 170 days; plus

(ii) 10 days multiplied by the number of LEAs the student attended during the school year.

(3) If a student is enrolled in two or more LEAs during a school year and the aggregate regular membership generated for the student between all LEAs exceeds the amount allowed under Subsection (2), the Superintendent shall apportion the days of regular membership allowed between the LEAs.

(4) If a student was enrolled for only part of the school day or only part of the school year, an LEA shall prorate the student's membership according to the number of hours, periods or credits for which the student actually was enrolled in relation to the number of hours, periods or credits for which a full-time student normally would have been enrolled. For example:

(a) If the student was enrolled for 4 periods each day in a 7 period school day for all 180 school days, the student's aggregate membership would be 4/7 of 180 days or 103 days.

(b) If the student was enrolled for 7 periods each day in a 7 period school day for 103 school days, the student's membership would also be 103 days.

(5) ~~[For students in grades 2 through 12, an]~~ An LEA shall calculate the days in membership ~~for all students~~ using a method equivalent to the following: total clock hours of instruction for which the student was enrolled during the school year divided by 990 hours and then multiplied by 180 days and finally rounded up to the nearest whole day. For example, if a student was enrolled for only 900 hours during the school year, the student's aggregate membership would be $(900/990)*180$, and the LEA would report 164 days.

~~[(6) For students in grade 1, an LEA shall adjust the first term of the formula to use 810 hours as the denominator.~~

~~[(7) For students in kindergarten, an LEA shall adjust the first term of the formula to use 450 hours as the denominator.~~

~~[(8)6] The sum of regular plus self-contained special education and self-contained YIC membership days may not exceed 180 days.~~

~~[(9)7] The sum of regular and resource special education membership days may not exceed 360 days.~~

~~[(10)8] The sum of regular, ISI-1 and ISI-2 YIC membership days may not exceed 360 days.~~

~~[(11)9] An LEA may also count a student in membership for the equivalent in hours of up to:~~

(a) one period each school day, if the student has been:

(i) released by the school, upon a parent or guardian's request, during the school day for religious instruction or individual learning activity consistent with the student's SEOP/Plan for College and Career Readiness; or

(ii) participating in one or more extracurricular activities under Rule R277-438, but has otherwise been exempted from school attendance under Section 53G-6-204 for home schooling;

(b) two periods each school day per student for time spent in bus travel during the regular school day to and from another state-funded institution, if the student is enrolled in CTE instruction consistent with the student's SEOP/Plan for College and Career Readiness;

(c) all periods each school day, if the student is enrolled in:

(i) a concurrent enrollment program that satisfies all the criteria of Rule R277-713;

(ii) a private school without religious affiliation under a contract initiated by an LEA to provide special education services which directs that the instruction be paid by public funds if the

contract with the private school is approved by an LEA board in an open meeting;

(iii) a foreign exchange student program under Subsection 53G-6-707(7); or

(iv) a school operated by an LEA under a Utah Schools for the Deaf and the Blind IEP provided that:

(A) the student may only be counted in S1 membership and may not have an S2 record; and

(B) the S2 record for the student is submitted by the Utah Schools for the Deaf and the Blind.

R277-419-8. Student Membership Calculation During the 2020 Covid-19 Pandemic.

Notwithstanding the requirements of Sections R277-419-6 and R277-419-7, the Superintendent shall calculate an LEA's membership for days of instruction from March 16, 2020 to June 30, 2020, based on the LEA's average rate of membership between July 1, 2019 and March 13, 2020 if:

(1) the LEA has submitted a continuity of education plan on or before June 1, 2020; and

(2) the LEA provides educational services through the end of the LEA's regular school year calendar.

R277-419-[7]9. Calculations for a First Year Charter School.

(1) For the first operational year of a charter school or a new satellite campus, the Superintendent shall determine the charter school's WPU funding based on October 1 counts.

(2) For the second operational year of a charter school or a new satellite campus, the Superintendent shall determine the charter school's WPU funding based on Section 53F-2-302.

R277-419-[8]10. Reporting Requirements, LEA Records, and [Audits]Agreed-Upon Procedures Engagements.

(1) An LEA shall report aggregate membership for each student via the School Membership field in the S1 record and special education membership in the SCRAM Membership field in the S2 record and YIC membership in the S3 record of the Year End upload of the Data Clearinghouse file.

(2) In the Data Clearinghouse, aggregate membership is calculated in days of membership.

(3) To determine student membership, an LEA shall ensure that records of daily student attendance are maintained in each school which clearly and accurately show for each student the:

(a) entry date;

(b) exit date;

(c) exit or high school completion status;

(d) whether or not an absence was excused;

(e) disability status (resource or self-contained, if applicable); and

(f) YIC status (ISI-1, ISI-2 or self-contained, if applicable).

(4) An LEA shall ensure that:

(a) computerized or manually produced records for CTE programs are kept by teacher, class, and classification of instructional program (CIP) code; and

(b) the records described in Subsection (4)(a) clearly and accurately show for each student in a CTE class the:

(i) entry date;

(ii) exit date; and

(iii) excused or unexcused status of absence.

(5) An LEA shall ensure that each school within the LEA completes a minimum of one attendance check each school day.

NOTICES OF PROPOSED RULES

(6) Due to school activities requiring schedule and program modification during the first days and last days of the school year:

(a) for the first five school days, an LEA may report aggregate days of membership equal to the number recorded for the second five-day period of the school year;

(b) for the last five-day period, an LEA may report aggregate days of membership equal to the number recorded for the immediately preceding five-day period; and

(c) schools shall continue instructional activities throughout required calendared instruction days.

(7) An LEA shall employ an independent auditor, under contract, to:

(a) ~~annually audit student accounting records~~ perform an annual agreed-upon procedures engagement; and

(b) report ~~the~~ any findings of the ~~audit~~ engagement to:

(i) the LEA board; and

(ii) the Financial Operations Section of the Board.

(8) Reporting dates, forms, and procedures are found in the ~~[State of Utah Legal Compliance Audit Guide, provided to LEAs by the Superintendent in cooperation with the State Auditor's Office]~~ Guide for Agreed-Up On Procedures Engagements for Local Education Agencies, published by the Office of the State Auditor, in collaboration with the Superintendent.

(9) The Superintendent:

(a) shall review each LEA's student membership and fall enrollment ~~audit~~ reports as they relate to the allocation of state funds ~~in accordance with the policies and procedures established in Sections R277-484-7 and 8~~; and

(b) may periodically or for cause review LEA records and practices for compliance with the laws and this rule.

R277-419-~~9~~11. High School Completion Status.

(1) An LEA shall account for the final status of all students who enter high school (grades 9-12) whether they graduate or leave high school for other reasons, using the following decision rules to indicate the high school completion or exit status of each student who leaves the Utah public education system:

(a) graduates are students who earn a basic high school diploma by satisfying one of the options consistent with Subsection R277-705-4(2) or out-of-school youths of school age who complete adult education secondary diploma requirements consistent with R277-733;

(b) completers are students who have not satisfied Utah's requirements for graduation but who:

(i) are in membership in twelfth grade on the last day of the school year; and

(ii)(A) meet any additional criteria established by an LEA consistent with its authority under Section R277-705-4;

(B) meet any criteria established for special education students under Utah State Board of Education Special Education Rules, Revised, June 2016, and available at: <http://www.schools.utah.gov/sars/Laws.aspx> and the Utah State Board of Education;

(C) meet any criteria established for special education students under Subsection R277-700-8(5); or

(D) pass a General Educational Development (GED) test with a designated score;

(c) continuing students are students who:

(i) transfer to higher education, without first obtaining a diploma;

(ii) transfer to the Utah Center for Assistive Technology without first obtaining a diploma; or

(iii) age out of special education;

(d) dropouts are students who:

(i) leave school with no legitimate reason for departure or absence;

(ii) withdraw due to a situation so serious that educational services cannot be continued even under the conditions of Subsection R277-419-~~5~~6(3)(f)(ii);

(iii) are expelled and do not re-enroll in another public education institution; or

(iv) transfer to adult education;

(e) an LEA shall exclude a student from the cohort calculation if the student:

(i) transfers out of state, out of the country, to a private school, or to home schooling;

(ii) is a U.S. citizen who enrolls in another country as a foreign exchange student;

(iii) is a non-U.S. citizen who enrolls in a Utah public school as a foreign exchange student under Section 53G-6-707 in which case the student shall be identified by resident status (J for those with a J-1 visa, F for all others), not by an exit code;

(iv) dies; or

(v) beginning with the 2015-2016 school year, is attending an LEA that is not the student's school of enrollment.

(2)(a) An LEA shall report the high school completion status or exit code of each student to the Superintendent as specified in Data Clearinghouse documentation.

(b) High School completion status or exit codes for each student are due to the Superintendent by year end upload for ~~processing and auditing~~ review related to the Agreed-Up On Procedures Engagement.

(c) Except as provided in Subsection (2)(d), an LEA shall submit any further updates of completion status or exit codes by October 1 following the end of a student's graduating cohort pursuant to Section R277-484-3.

(d) An LEA with an alternative school year schedule where all of the students have an extended break in a season other than summer, shall submit the LEA's data by the next complete data submission update, following the LEA's extended break, as defined in Section R277-484-3.

(3)(a) The Superintendent shall report a graduation rate for each school, LEA, and the state.

(b) The Superintendent shall calculate the graduation rates in accordance with applicable federal law.

(c) The Superintendent shall include a student in a school's graduation rate if:

(i) the school was the last school the student attended before the student's expected graduation date; and

(ii) the student does not meet any exclusion rules as stated in Subsection (1)(e).

(d) The last school a student attended will be determined by the student's exit dates as reported to the Data Clearinghouse.

(e) A student's graduation status will be attributed to the school attended in their final cohort year.

(f) If a student attended two or more schools during the student's final cohort year, a tie-breaking logic to select the single school will be used in the following hierarchical order of sequence:

(i) school with an attached graduation status for the final cohort year;

(ii) school with the latest exit date;

(iii) school with the earliest entry date;

- (iv) school with the highest total membership;
 - (v) school of choice;
 - (vi) school with highest attendance; or
 - (vii) school with highest cumulative GPA.
- (g) The Superintendent shall report the four-year cohort rate on the annual state reports.

R277-419-1[0]2. Student Identification and Tracking.

- (1)(a) Pursuant to Section 53E-4-308, an LEA shall:
- (i) use the SSID system maintained by the Superintendent to assign every student enrolled in a program under the direction of the Board or in a program or a school that is supported by public school funding a unique student identifier; and
 - (ii) display the SSID on student transcripts exchanged with LEAs and Utah public institutions of higher education.
- (b) The unique student identifier:
- (i) shall be assigned to a student upon enrollment into a public school program or a public school-funded program;
 - (ii) may not be the student's social security number or contain any personally identifiable information about the student.
- (2) An LEA shall require all students to provide their legal first, middle, and last names at the time of registration to ensure that the correct SSID follows students who transfer among LEAs.
- (a) A school shall transcribe the names from the student's birth certificate or other reliable proof of the student's identity and age, consistent with Section 53G-6-603;
- (b) The direct transcription of student names from birth certificates or other reliable proof of student identity and age shall be the student's legal name for purposes of maintaining school records; and
- (c) An LEA may modify the order of student names, provide for nicknames, or allow for different surnames, consistent with court documents or parent preferences, so long as legal names are maintained on student records and used in transmitting student information to the Superintendent.
- (3) The Superintendent and LEAs shall track students and maintain data using students' legal names.
- (4) If there is a compelling need to protect a student by using an alias, an LEA should exercise discretion in recording the name of the student.
- (5) An LEA is responsible to verify the accuracy and validity of enrollment verification data, prior to enrolling students in the LEA, and provide students and their parents with notification of enrollment in a public school.
- (6) An LEA shall ensure enrollment verification data is collected, transmitted, and stored consistent with sound data policies, established by the LEA as required in Rule R277-487.

R277-419-1[4]3. Exceptions.

- (1)(a) An LEA may, at its discretion, make an exception for school attendance for a public school student, in the length of the school day or year, for a student with compelling circumstances.
- (b) The time an excepted student is required to attend school shall be established by the student's IEP or Plan for College and Career Readiness.
- (2) A school using a modified 45-day/15-day year round schedule initiated prior to July 1, 1995 shall be considered to be in compliance with this rule if the school's schedule includes a minimum of 990 hours of instruction time in a minimum of 172 days.

KEY: education finance, school enrollment, pupil accounting

Date of Enactment or Last Substantive Amendment: ~~May 8, 2020~~
Notice of Continuation: August 14, 2017
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-2-102(7); 53E-3-501(1)(e); 53E-3-602(2); 53E-3-301(3)(d); 53G-4-404

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R277-476	Filing No. 52778

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
R277-476. Civics Engagement Pilot Program
3. Purpose of the new rule or reason for the change:
As a result of H.B. 334, Civics Engagement Pilot Program passed in the 2020 General Session, new Rule R277-476 has been created to establish the parameters of the pilot program created in H.B. 334 (2020).
4. Summary of the new rule or change:
This rule creates a pilot civics engagement project program; establish eligibility requirements to participate in the program including local education agency (LEA) diversity, program alignment to Utah Core Standards for Social studies, and ability to implement competency based approaches to civics education; creates an application process; and establishes reporting criteria.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:
This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. H.B. 334 (2020) required passage of this new rule.
B) Local governments:
This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. H.B. 334 (2020) required passage of this new rule.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule change is not expected to have independent fiscal impact on small businesses' revenues or expenditures. H.B. 334 (2020) required passage of this new rule.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):
This rule change is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. H.B. 334 (2020) required passage of this new rule.
F) Compliance costs for affected persons:
There are no independent compliance costs for affected persons. H.B. 334 (2020) required passage of this new rule.
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)
Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head approval of regulatory impact analysis:			
The Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.			
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:			
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This proposed rule has no fiscal impact on LEAs and will not have a fiscal impact on small businesses either.			
B) Name and title of department head commenting on the fiscal impacts:			
Sydnee Dickson, State Superintendent			

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Article X, Section 3	Subsection 53E-3-401(4)	Section 53G-10-204
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	07/01/2020
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10. This rule change MAY become effective on:	07/08/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	05/15/2020
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**R277. Education, Administration.
R277-476. Civics Engagement Pilot Program.
R277-476-1. Authority and Purpose.**

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Section 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
 - (c) Section 53G-10-204, which directs the Board to make rules creating a civics engagement project that complies with the Utah Core Standards, establish eligibility for the program, and establish an application process.
- (2) The purpose of this rule is to:
 - (a) create a pilot civics engagement project program;
 - (b) establish eligibility requirements to participate in the program;
 - (c) create an application process; and
 - (d) establish reporting criteria.

R277-476-2. Definitions.

- (1) "Civic disposition" means a student's desire to actively participate in civic processes at any level of government.
- (2) "Civic engagement project" or "project" means the same as the term is defined in Subsection 53G-10-204(1).
- (3) "Civic knowledge" means a student's grasp of governmental processes and core concepts of representative government including:
 - (a) ways citizens can play a role in civic life;
 - (b) respect and understanding for the Declaration of Independence and The Constitution of the United States and the State of Utah;
 - (c) the values and principles of a constitutional republic; and
 - (d) an acquisition of civic values including those outlined in Subsection 53G-10-204(3).
- (4) "Civic skills" means a student's capability to use acquired skills effectively to participate in civic life, including abilities to think critically, communicate effectively, problem-solve, and work collaboratively.

R277-476-3. Civics Project Requirements--Eligibility and Application.

- (1) Subject to legislative appropriation, an LEA may apply for a three-year pilot civics engagement project grant.
- (2) An LEA's application shall contain the following:
 - (a) a budget proposal for the use of funds;
 - (b) the number of schools, teachers, and projected students participating in the grant program within the LEA;
 - (c) the LEA's goals and outcome measures for the program; and
 - (d) the LEA's plan to create and implement a program including:
 - (i) how the LEA's projects align with:
 - (A) the U.S. Government strands within the Utah Core Standards for Social Studies;
 - (B) Section 53G-10-204;
 - (C) Section 53G-10-302; and
 - (D) Subsection 53G-10-304(2);
 - (ii) opportunities for student reflection; and
 - (iii) opportunities for public student presentations.
- (3) An LEA's application shall be scored and ranked based upon the following:
 - (a) the quality of the LEA's overall budget proposal and plan as described in Subsection (2); and
 - (b) an LEA's geographic and student diversity including:
 - (i) urban student settings;
 - (ii) suburban student settings; and
 - (iii) rural student settings.
 - (4) A participating LEA is not exempt from the civics test requirement described in Section 53E-4-205.
 - (5) A participating LEA shall ensure the program is run in accordance with Section 53G-10-202.

R277-476-4. Performance Measures and Reporting.

- (1) An LEA shall submit to the Superintendent an annual progress report by the date and in a manner prescribed by the Superintendent.
- (2) The annual progress report shall report on all performance measures and data requested by the Superintendent including:
 - (a) civic disposition of participating students;

NOTICES OF PROPOSED RULES

- (b) project impact on civic knowledge;
- (c) enhancement of civic skills;
- (d) the LEA's goals and outcome measures;
- (e) project categories and types; and
- (f) other relevant experiential data.
- (3) An LEA may use a board-approved online provider to collect performance measures and outcome data.

R277-476-5. Distribution and Use of Funds.

- (1) An LEA may receive up to the LEA's requested amount not to exceed \$40,000.
- (2) An LEA shall use funds only for the purposes specified in the LEA's application and plan.
- (3) An LEA may submit a request to amend the LEA's budget proposal to the Superintendent.
- (4) An LEA may not use funds for:
 - (a) purchase of property;
 - (b) new equipment;
 - (c) maintenance of current equipment; or
 - (d) travel expenses.

KEY: civics, civics engagement project, social studies.
Date of Enactment or Last Substantive Amendment: 2020
Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53G-10-204

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-489	Filing No. 52779

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R277-489. Kindergarten Entry and Exit Assessment - Early Intervention Program
3. Purpose of the new rule or reason for the change:
Updates to Rule R277-489 are required for the Optional Extended Kindergarten program created by H.B. 99

passed in the 2020 General Session. The rule reflects new performance measures.

4. Summary of the new rule or change:

This rule is being amended to reflect changes made to the Optional Enhanced Kindergarten program pursuant to H.B. 99 (2020). The rule expands performance measures and makes technical changes.

This rule takes the required performance measure that applied to the Kindergarten Supplement Education Program and now requires the same measures for the Optional Enhanced Kindergarten Program as required by H.B. 99 (2020). This rule also updates the name of the Early Intervention program to be the Optional Enhanced Kindergarten program and makes other technical changes.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. H.B. 99 (2020) required the updates included in this rule change.

B) Local governments:

This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. H.B. 99 (2020) required the updates included in this rule change.

C) Small businesses ("small business" means a business employing 1-49 persons):

This rule change is not expected to have independent fiscal impact on small businesses' revenues or expenditures. H.B. 99 (2020) required the updates included in this rule change.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. H.B. 99 (2020) required the updates included in this rule change.

F) Compliance costs for affected persons:

There are no independent compliance costs for affected persons. H.B. 99 (2020) required the updates included in this rule change.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

B) Name and title of department head commenting on the fiscal impacts:

Sydnee Dickson, State Superintendent

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Article X, Section 3	Subsection 53E-3-401(4)	Section 53F-2-507
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/01/2020

10. This rule change MAY become effective on: 07/08/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	05/15/2020
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R277. Education, Administration.

R277-489. Kindergarten Entry and Exit Assessment - ~~[Early Intervention]~~Enhanced Kindergarten Program.

R277-489-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Subsection 53E-3-401(4), which permits the Board to make rules to execute the Board's duties and responsibilities under the Utah constitution and state law; and
 - (c) Section 53F-2-507, which directs the Board to distribute funds appropriated for the ~~[early intervention]~~enhanced kindergarten program to LEAs that apply for the funds.
- (2) The purpose of this rule is to require LEAs to administer a kindergarten entry and exit assessment and establish criteria and procedures to administer the ~~[early intervention]~~enhanced kindergarten program.

R277-489-2. Definitions.

- (1) "~~[Early intervention]~~Enhanced Kindergarten program" means a program that provides additional instruction to kindergarten age students:
 - (a) as ~~[an extended period]~~additional hours before or after school~~;~~;
 - ~~(b) full day[on Saturdays, or during the summer]; or~~
 - ~~[(b)c]~~ through other means.
- (2) "Enrollment" means class enrollment of not more than the student enrollment of other kindergarten classes within the school.
- (3) "LEA plan" means the ~~[early intervention]~~enhanced kindergarten program plan submitted by an LEA and approved and accepted for funding by the Superintendent.

R277-489-3. Administration of Kindergarten Entry and Exit Assessments.

- (1) Except as provided in Subsection (2), an LEA shall administer:
 - (a) a kindergarten entry assessment, approved by the Superintendent, to each kindergarten student sometime within:
 - (i) three weeks before the first day of ~~[school]~~kindergarten; and
 - (ii) three weeks after the first day of ~~[school]~~kindergarten; and
 - (b) a kindergarten exit assessment, approved by the Superintendent, to each kindergarten student sometime during the four weeks before the last day of school.
- (2) A charter school that does not participate in the ~~[Early Intervention P]~~enhanced kindergarten program or the K-3 Reading Software Program described in R277-496 is not required to administer the kindergarten entry and exit assessments.
- (3) The days used for the assessment shall be consistent with Subsection R277-419-11(3)(e).
- (4) An LEA shall submit to the Data Gateway:
 - (a) kindergarten entry assessment data by September 30; and
 - (b) kindergarten exit assessment data by June 15.
- (5) In accordance with Section R277-114, the Superintendent may recommend action to the Board, including withholding of funds, if

an LEA fails to provide complete, accurate, and timely reporting under Subsection (4).

R277-489-4. Use of Kindergarten Entry and Exit Assessment Data.

- (1) The Superintendent or an LEA may use entry and exit assessment data obtained in accordance with Section R277-489-3 to:
 - (a) provide insights into current levels of academic performance upon entry and exit of kindergarten;
 - (b) identify students in need of early intervention instruction and promote differentiated instruction for all students;
 - (c) understand the effectiveness of programs, such as extended-day kindergarten and pre-school;
 - (d) provide opportunities for data data-informed decision making and cost-benefit analysis of early learning initiatives;
 - (e) identify effective instructional practices or strategies for improving student achievement outcomes in a targeted manner; and
 - (f) understand the influence and impact of full-day kindergarten on at-risk students in both the short- and long-term.
- (2) An LEA may not use entry and exit assessment data obtained in accordance with Section R277-489-3 to:
 - (a) justify early enrollment of a student who is not currently eligible to enroll in kindergarten, such as a student with a birthday falling after September 1;
 - (b) evaluate an educator's teaching performance; or
 - (c) determine whether a student should be retained or promoted between grades.

R277-489-5. ~~[Early Intervention]~~Enhanced Kindergarten Program.

- (1) The Superintendent shall accept applications from LEAs for ~~[early intervention]~~enhanced kindergarten programs ~~[delivered through enhanced kindergarten programs]~~that satisfy the requirements of Section 53F-2-507 and the provisions of this rule.
- (2) The Superintendent shall establish timelines for submission of applications.
- (3) An LEA application for ~~[early intervention]~~enhanced kindergarten program funds shall include:
 - (a) the names of schools for which program funds must be used;
 - (b) a description of the delivery methods that may be used to serve eligible students, such as:
 - (i) full-day kindergarten;~~;~~
 - ~~[(ii) two half days;]~~
 - (ii)~~[i]~~ extra hours; ~~or~~
 - ~~[(iv) a summer program; or]~~
 - ~~[(v)iii]~~ other means~~;~~;
 - (c) a description of the evidence-based early intervention model used by the LEA;
 - (d) a description of how the program focuses on age-appropriate literacy and numeracy skills; ~~and~~
 - (e) a description of how the program targets at-risk students;~~;~~
 - ~~[(f) a description of the assessment procedures and tools to be used by participating schools within the LEA;] and~~
 - (g) other information as requested by the Superintendent and approved by the Board.
- (4) The Superintendent shall distribute funds to eligible charter schools based on a formula identifying the percentage of students in public schools and the percentage of students with the greatest need for an enhanced kindergarten program consistent with Subsection 53F-2-507(4)(a).
- (5) The Superintendent shall distribute funds to eligible school districts by determining the number of students eligible to receive

free lunch in the prior school year for each school district and prorating the remaining funds based on the number of students eligible to receive free lunch in each school district.

(6) The Superintendent shall establish timelines for distribution of ~~[early intervention]~~enhanced kindergarten program funds.

(7) The Superintendent shall require all funded programs to submit an annual report.

(8) An LEA may not require a student to participate in an ~~[early intervention]~~enhanced kindergarten program.

R277-489-6 Eligibility for Enhanced Kindergarten Programs Grant Funds—Use of Funds.

(1) The Superintendent shall review data gathered from previous year kindergarten entry and exit assessments to determine the following performance measures:

(a) average percentage of students state-wide with increases in literacy scores;

(b) average percentage of students state-wide with increases in numeracy scores;

(c) average percentage of students state-wide with decreases in literacy scores;

(d) average percentage of students state-wide with decreases in numeracy scores;

(2)(a) An eligible LEA that received program funds for the current school year may reapply to receive program funds for the next school year if 50% of the participating LEA's schools performed better than the state average in at least three of the four performance measures outlined in Subsection (1);

(b) If an LEA does not meet performance measures, as defined in Subsection (2)(a), the LEA shall be in the enhanced kindergarten system of support and required to participate in interventions to improve outcomes.

(c) An eligible LEA that does not meet the performance standards outlined in Subsection (2)(a) for three consecutive years will have funding reduced to exclude failing programs.

(3) The Superintendent shall establish the strategies, interventions, and techniques for LEAs that are in the enhanced kindergarten system of support to help schools achieve performance outcomes on the KEEP assessment.

(4) An LEA governing board shall use program money for enhanced kindergarten programs and supports that have proven to significantly increase the percentage of students who are proficient in literacy and mathematics, including:

(a) salary and benefits for individuals teaching and supporting enhanced kindergarten programs; and

(b) evidence-based intervention curriculum.

KEY: ~~[early intervention]~~enhanced kindergarten

Date of Enactment or Last Substantive Amendment: ~~[September 21, 2017]~~2020

Notice of Continuation: June 6, 2017

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-2-507

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R277-490	Filing No. 52780
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Agency Information

1. Department:	Education
Agency:	Administration
Building:	Board of Education
Street address:	250 E 500 S
City, state:	Salt Lake City, UT 84111
Mailing address:	PO Box 144200
City, state, zip:	Salt Lake City, UT 84114-4200

Contact person(s):

Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R277-490. Beverley Taylor Sorenson Elementary Arts Learning Program (BTSALP)

3. Purpose of the new rule or reason for the change:

Rule R277-490 has been changed to conform the rule to changes in the licensing structure.

4. Summary of the new rule or change:

Rule R277-490 has been amended to update terminology use.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

This rule change is not expected to have material fiscal impact on state government revenues or expenditures. The updates are clarifying and technical in nature.

B) Local governments:

This rule change is not expected to have material fiscal impact on local governments' revenues or expenditures. The updates are clarifying and technical in nature.

C) Small businesses ("small business" means a business employing 1-49 persons):

This rule change is not expected to have material fiscal impact on small businesses' revenues or expenditures. The updates are clarifying and technical in nature.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have material fiscal impacts on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The updates are clarifying and technical in nature.

F) Compliance costs for affected persons:

There are no compliance costs for affected persons. The updates are clarifying and technical in nature.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

B) Name and title of department head commenting on the fiscal impacts:

Sydnee Dickson, State Superintendent

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Article X, Section 3	Subsection 53E-3-401(4)	Section 53F-2-506
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/01/2020

10. This rule change MAY become effective on:	07/08/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	05/15/2020
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R277. Education, Administration.

R277-490. Beverley Taylor Sorenson Elementary Arts Learning Program (BTSALP).

R277-490-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
 - (c) Section 53F-2-506, which directs the Board to establish a grant program for LEAs to hire qualified arts professionals to encourage student participation in the arts in Utah public schools and embrace student learning in Core subject areas.
- (2) The purpose of this rule is:
 - (a) to implement the BTSALP model in public schools through LEAs and consortia that submit grant applications to hire arts ~~[specialists]~~educators who are paid on ~~[the]~~an LEA's licensed teacher salary schedule;
 - (b) to distribute funds to LEAs to purchase supplies and equipment as provided for in Subsections 53F-2-506(4) and (6);
 - (c) to fund activities at endowed universities to provide pre-service training, professional development, research, and leadership for arts educators and arts education in Utah public schools; and
 - (d) to appropriately monitor, evaluate, and report programs and program results.

R277-490-2. Definitions.

- (1) "Arts equipment and supplies" includes musical instruments, recording and play-back devices, cameras, projectors, computers to be used in the program, CDs, DVDs, teacher reference books, and art-making supplies.
- (2) "Arts Program coordinator" or "coordinator" means an individual, employed full-time, who is responsible to:
 - (a) coordinate arts programs for an LEA or consortium;
 - (b) inform arts teachers;
 - (c) organize arts professional development including organizing arts local learning communities;
 - (d) oversee, guide, and organize the gathering of assessment data;
 - (e) represent the LEA or consortium arts program; and
 - (f) provide general leadership for arts education throughout the LEA or consortium.

(3) "Beverley Taylor Sorenson Elementary Arts Learning Program model," "BTSALP model," or "Program" means a program in grades K-6 ~~[with]~~including the following components:

- (a) a qualified arts ~~[specialist]~~educator to work collaboratively with the regular classroom teacher to deliver quality, sequential, and developmental arts instruction in alignment with the state fine arts core standards;
- (b) regular collaboration between the classroom teacher and arts ~~[specialist]~~educator in planning arts integrated instruction; and
- (c) other activities that may be proposed by an LEA on a grant application and approved by the Board.

(4) "Endowed university" ~~[means an institution of higher education in the state]~~has the same meaning as defined in Subsection 53F-2-506(1)(b).

(5) "Highly qualified school arts program ~~[specialist]~~educator" or "arts ~~[specialist]~~educator" means[~~:~~

- ~~_____ (a) an educator [with]who holds a current:~~
 - ~~_____ (i) a current educator license; and~~
 - ~~_____ (ii) a Level 2 or K-12 specialist endorsement in the art form;~~
 - ~~_____ (b) an elementary classroom teacher with a current educator license who is currently enrolled in a Level 2 specialist endorsement program in the art form;~~
 - ~~_____ (c) a professional artist employed by a public school and accepted into the Board Alternative Routes to License (ARL) program under Rule R277-503 to complete a K-12 endorsement in the art form, which includes the Praxis exam in the case of art, music, or theatre; or~~
 - ~~_____ (d) an individual who qualifies for an educator license under Board rule that qualifies the individual for the position provided that:~~
 - ~~_____ (i) an LEA provides an affidavit verifying that a reasonable search was conducted for an individual who would qualify for an educator license through other means; and~~
 - ~~_____ (ii) the LEA reopens the position and conducts a new search every two years.~~
 - ~~_____ (e) In addition to required licensure and endorsements, prospective teachers should provide evidence of facilitating elementary Core learning in at least one art form.]~~
- (a) Associate, Professional, or LEA Specific educator license as described in Rule R277-301; and
- (b)(i) k-12 art form specific endorsement;
 - (ii) elementary specialist art form specific endorsement; or
 - (iii) qualifications for a state approved endorsement plan to complete the endorsement requirements.

(6) "Matching funds" means funds that equal at least 20% of the total costs for salary plus benefits incurred by an LEA or consortium to fund the LEA or consortium's arts ~~[specialist]~~educator.

R277-490-3. Arts ~~[Specialist]~~Educator Grant Program - LEA Consortium.

- (1) LEAs may form a consortium to employ arts ~~[specialists]~~educators appropriate for the number of students served.
- (2) An LEA or a consortium of LEAs may submit a grant request consistent with time lines provided in this rule.
- (3) An LEA or a consortium shall develop its proposal consistent with the BTSALP model outlined under Subsection R277-490-2(3).
- (4) A consortium grant request shall explain the necessity or greater efficiency and benefit of an arts ~~[specialist]~~educator serving several elementary schools within a consortium of LEAs.

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(5) A consortium grant shall explain a schedule for each specialist to serve the group of schools within several of the LEAs similarly to an arts ~~[specialist]~~educator in a single school.

(6) A consortium grant request shall provide information for a consortium arts ~~[specialist's]~~educator's schedule that minimizes the arts ~~[specialist's]~~educator's travel and allows the arts ~~[specialist]~~educator to be well integrated into several schools.

(7) An LEA's grant application shall include the collaborative development of the application with the LEA's partner endowed university and ~~[School Community Councils]~~school community councils if matching funds come from School LAND Trust Funds.

R277-490-4. Arts ~~[Specialist]~~Educator Grant Program Timelines.

(1) An LEA or a consortium shall complete a program grant application annually.

(2) The Board shall grant funding priority to renewal applications.

(3) An LEA or consortium shall submit a completed application requesting funding to the Superintendent by May 1 annually.

(4) The Board shall designate an LEA or a consortium for funding no later than June 1 annually.

R277-490-5. Distribution of Funds for Arts ~~[Specialist]~~Educator.

(1) A program LEA or consortium shall submit a projection of salaries, including benefits, of all ~~[program specialists]~~arts educators the LEA or consortium expects to employ in the coming school year by May 1 annually.

(2) A program LEA or consortium shall submit complete information of salaries, including benefits, of all ~~[program specialists]~~arts educators employed by the LEA or consortium no later than September 30 annually.

(3)(a) If a program LEA or consortium provides matching funds, the Superintendent shall distribute funds to program grant recipients annually up to 80% of the salaries plus benefits for approved hires in the program, and not to exceed the amount projected in accordance with Subsection (1), consistent with Subsection ~~[s 53A-17a-162(5) and (6)]~~ 53F-2-506(5).

(b) The Superintendent shall determine the exact percentage awarded following review of available program funding and exact costs for continuing programs.

(c) The Superintendent may not award funds to an LEA for a new ~~[program specialist]~~arts educator unless program funding provides 80% funding for all continuing grants.

(4) The Superintendent shall annually set the upper limit on a grant amount, which may not exceed the increase in the WPU.

(5) A grant recipient shall provide matching funds for each ~~[specialist]~~arts educator funded through the program.

R277-490-6. Distribution of Funds for Arts ~~[Specialist]~~Educator Supplies.

(1) The Board shall distribute funds for arts ~~[specialist]~~educator supplies to an LEA or consortium as available.

(2) A grant recipient shall distribute funds to participating schools as provided in the approved LEA or consortium grant and consistent with LEA procurement policies.

(3) A grant recipient shall require arts ~~[specialists]~~educators to provide adequate documentation of arts supplies purchased consistent with the grant recipient's plan, this rule, and the law.

(4) Summary information about effective supplies and equipment shall be provided in the school or consortium evaluation of the program.

R277-490-7. LEA or Consortium Employment of Arts Coordinators.

(1)(a) An LEA or consortium may apply for funds to employ arts coordinators in the LEA or consortium.

(b) These are intended as small stipends for educators who are already employed in rural districts to help support arts education and the implementation of BTSALP.

(2) An applicant shall explain:

(a) how an arts coordinator will be used, consistent with the BTSALP model;

(b) what requirements an arts coordinator must meet; and

(c) what training will be provided, and by whom.

(3) The Superintendent shall notify an LEA that receives a grant award no later than June 1 annually.

R277-490-8. Endowed University Participation in the BTSALP.

(1) The Superintendent may consult with endowed chairs and integrated arts advocates regarding program development and guidelines.

(2) An endowed university may apply for grant funds to fulfill the purposes of this program, which include:

(a) delivery of high quality professional development to participating LEAs;

(b) the design and completion of research related to the program;

(c) providing the public with elementary arts education resources; and

(d) other program related activities as may be included in a grant application and approved by the Board.

(3) An endowed university grant application shall include documentation of collaborative development of a plan for delivery of high quality professional development to participating LEAs.

(4) The Superintendent shall determine the LEAs assigned to each endowed university.

(5) The Board may award no more than 10% of the total legislative appropriation for grants to endowed universities.

(6) The Superintendent shall monitor the activities of the grantees to ensure compliance with grant rules, fulfillment of grant application commitments, and appropriate fiscal procedures.

(7) An endowed university shall cooperate with the Superintendent in the monitoring of its grant.

(8) An endowed university that receives grant funds shall consult, as requested by the Superintendent, in the development and presentation of an annual written program report as required in statute.

R277-490-9. LEAs Cooperation with the Superintendent for BTSALP.

(1) A BTSALP staff member may visit a school receiving a grant to observe implementation of the grant.

(2) A BTSALP school shall cooperate with the Superintendent to allow visits of members of the Board, legislators, and other invested partners to promote elementary arts integration.

(3) An LEA shall accurately report the number of students impacted by the program grant and report on the delivery systems to those students as requested by the Superintendent.

(4)(a) An LEA found to be out of compliance with the terms of the grant will be notified within 30 days of the discovery of non-compliance.

(b) An LEA found to be ~~[in non-compliance]~~non-compliant will be given 30 days to correct the issues.

(c) If non-compliance is not resolved within that time frame, an LEA is subject to losing the grant funds for the school or schools found to be non-compliant.

KEY: arts programs, grants, public schools, endowed universities

Date of Enactment or Last Substantive Amendment: ~~[March 14, 2018]~~**2020**

Notice of Continuation: January 12, 2018

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-2-506

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Utah Admin. Code Ref (R no.):	R277-493	Filing No. 52781

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R277-493. Kindergarten Supplemental Enrichment Program
3. Purpose of the new rule or reason for the change:
Rule R277-493 is being repealed because H.B. 99 from the 2020 General Session, repealed the Kindergarten supplemental enrichment program.
4. Summary of the new rule or change:
Rule R277-493 has merged corresponding elements into the Optional Enhanced Kindergarten program via amendments being proposed to Rule R277-489.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. Rule R277-493 is being repealed because H.B. 99 (2020) repealed the Kindergarten Supplemental Enrichment Program.

B) Local governments:

This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. Rule R277-493 is being repealed because H.B. 99 (2020) repealed the Kindergarten Supplemental Enrichment Program.

C) Small businesses ("small business" means a business employing 1-49 persons):

This rule change is not expected to have independent fiscal impact on small businesses' revenues or expenditures. Rule R277-493 is being repealed because H.B. 99 (2020) repealed the Kindergarten Supplemental Enrichment Program.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency):**

This rule change is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. Rule R277-493 is being repealed because H.B. 99 (2020) repealed the Kindergarten Supplemental Enrichment Program.

F) Compliance costs for affected persons:

There are no independent compliance costs for affected persons. Rule R277-493 is being repealed because H.B. 99 (2020) repealed the Kindergarten Supplemental Enrichment Program.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule repeal has no fiscal impact on local education

agencies and will not have a fiscal impact on small businesses either.

B) Name and title of department head commenting on the fiscal impacts:

Sydnee Dickson, State Superintendent

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Article X, Section 3	Section 53F-4-205	Subsection 53E-3-401(4)
Subsection 53F-4-205(7)		

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/01/2020

10. This rule change MAY become effective on: 07/08/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	05/15/2020
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R277. Education, Administration.

~~**R277-493. Kindergarten Supplemental Enrichment Program.**~~

~~**R277-493-1. Authority and Purpose.**~~

- ~~(1) This rule is authorized by:~~
- ~~(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;~~
- ~~(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.~~

~~(c) Subsection 53F-4-205(7), which directs the Board to adopt rules to implement the kindergarten supplemental enrichment program.~~

~~(2) The purpose of this rule is to make rules to establish reporting procedures and administer the kindergarten supplemental enrichment program established in Section 53F-4-205.~~

R277-493-2. Definitions.

~~(1)(a) "Eligible school" has the same meaning as defined in Subsection 53F-4-205.~~

~~(b) "Eligible school" does not include a school that receives funds under Section 53F-2-507, Enhanced kindergarten early intervention program.~~

~~(2) "Kindergarten supplemental enrichment program" has the same meaning as defined in Subsection 53F-4-205.~~

R277-493-3. Program Administration.

~~(1) An LEA with an eligible school may apply for kindergarten supplemental enrichment program funds by filing a grant application following a form approved by the Superintendent no later than May 15 annually.~~

~~(2) An application filed in accordance with Subsection (1) shall include:~~

~~(a) evidence of an eligible school's overall need for a kindergarten supplemental enrichment program based on the results of the eligible school's current kindergarten entry assessments and programing;~~

~~(b) a description of how the eligible school will use the Board approved uniform entry assessment to determine which students to target for the kindergarten supplemental enrichment program;~~

~~(c) a description of how the eligible school's program will coordinate with the Superintendent and LEA personnel to meet the annual reporting requirements of this rule;~~

~~(d) a description of how the eligible school will use funds to meet the requirements of Subsection 53F-4-205(4);~~

~~(e) if an eligible school is applying based on their percentage of students experiencing intergenerational poverty, a description of the learning strategies the school will employ to design and implement a program that is developed with the unique needs of students experiencing intergenerational poverty in mind; and~~

~~(f) other information as requested by the Superintendent.~~

~~(3)(a) If an eligible school has previously received funding through the kindergarten supplemental enrichment program, an application under Subsection (1) shall also include data from Board entry and exit exams to establish success in changing student outcomes in comparison to similarly situated peers who weren't able to receive the benefit of the kindergarten supplemental enrichment program.~~

~~(b) If an LEA submits a renewal application for a school that has previously been deemed eligible and received funding through the kindergarten supplemental enrichment program, the Superintendent may continue to deem the school as eligible based on the school's eligibility described in Subsection 53F-4-205(1)(b) from its initial application year.~~

~~(4) The Superintendent shall recommend distribution of funds by the Board in accordance with Subsection 53F-4-205(2).~~

~~(5) An eligible school that receives kindergarten supplement enrichment program funds shall comply with the assessment and reporting requirements of Section R277-489-3.~~

~~(6) The Superintendent shall require an eligible school that receives funds in accordance with this rule to demonstrate compliance with federal supplanting requirements.~~

~~R277-493-4. Eligibility to Apply for 2019-20 School Year Grant Funds.~~

~~(1) The Superintendent shall review data gathered from 2018-19 kindergarten entry and exit assessments to determine the following performance measures:~~

~~(a) average percentage of students state wide with increases in literacy scores;~~

~~(b) average percentage of students state wide with increases in numeracy scores;~~

~~(c) average percentage of students state wide with decreases in literacy scores;~~

~~(d) average percentage of students state wide with decreases in numeracy scores;~~

~~(2)(a) An eligible school that received program funds for the 2018-19 school year may reapply to receive program funds for the 2019-20 school year if the eligible school performs better than the state average in at least three of the four performance measures outlined in Subsection (1).~~

~~(b) An eligible school that does not meet the performance standards outlined in Subsection (2)(a) may not apply for program funds for the 2019-20 school year.~~

KEY: ~~kindergarten, supplementals, enrichments~~

Date of Enactment or Last Substantive Amendment: ~~July 2, 2019~~

Notice of Continuation: ~~April 8, 2019~~

Authorizing, and Implemented or Interpreted Law: ~~Art X Sec 3; 53F-3-401; 53F-4-205(7)~~

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Utah Admin. Code Ref (R no.):	R277-500	Filing No. 52782

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R277-500. Educator Licensing Renewal, Timelines, and Required Fingerprint Background Checks

<p>3. Purpose of the new rule or reason for the change:</p> <p>Rule R277-500 is being repealed because the rule requirements will be incorporated into new State Board of Education Rule (Board) R277-302. (EDITOR'S NOTE: The proposed new Rule R277-302 is under ID No. 52773 in this issue, June 1, 2020, of the Bulletin.)</p>
<p>4. Summary of the new rule or change:</p> <p>This rule is being repealed due to the renumbering of educator licensing rules. The educator licensing renewal procedures, timelines and required background check, plus new educator licensing policies will be incorporated into new Board Rule R277-302.</p>

Fiscal Information

<p>5. Aggregate anticipated cost or savings to:</p>
<p>A) State budget:</p> <p>This rule repeal is not expected to have independent fiscal impact on state government revenues or expenditures. This rule is being repealed in its entirety because the rule requirements were incorporated into new Board Rule R277-302.</p>
<p>B) Local governments:</p> <p>This rule repeal is not expected to have independent fiscal impact on local governments' revenues or expenditures. The rule is being repealed in its entirety because the rule requirements were incorporated into new Board Rule R277-302.</p>
<p>C) Small businesses ("small business" means a business employing 1-49 persons):</p> <p>This rule repeal is not expected to have independent fiscal impact on small businesses' revenues or expenditures. The rule is being repealed in its entirety because the rule requirements were incorporated into new Board Rule R277-302.</p>
<p>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</p> <p>There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.</p>

<p>E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):</p> <p>This rule repeal is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The rule is being repealed in its entirety because the rule requirements were incorporated into new Board Rule R277-302.</p>
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<p>F) Compliance costs for affected persons:</p> <p>There are no independent compliance costs for affected persons.</p>
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G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

B) Name and title of department head commenting on the fiscal impacts:

Sydnee Dickson, State Superintendent

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Article X, Section 3	Subsection 53E-3-401(4)	
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/01/2020

10. This rule change MAY become effective on: 07/08/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	05/15/2020
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R277. Education, Administration.

~~**[R277-500. Educator Licensing Renewal, Timelines, and Required Fingerprint Background Checks.**~~

~~**R277-500 1. Authority and Purpose.**~~

~~A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53E-6-201 which requires the Board to make rules requiring participation in professional learning activities in order for educators to retain Utah licensure, and Subsection 53E-3-401(4) which permits the Board to adopt rules in accordance with its responsibilities.~~

~~B. The purpose of this rule is to provide definitions and requirements for an educator to renew a Utah educator license. This rule requires verification of employment, development of a professional learning plan, and documentation of activities consistent with Title 53E, Chapter 6, Education Professional Licensure.~~

~~**R277-500 2. Definitions.**~~

~~A. "Acceptable alternative professional learning activity" means an activity that may not fall within a specific category under R277-500-5 but is consistent with this rule.~~

~~B. "Accredited" means a teacher preparation program accredited by the National Council for Accreditation of Teacher Education (NCATE), the Teacher Education Accreditation Council (TEAC), or the Council for the Accreditation of Educator Preparation (CAEP).~~

~~C. "Accredited school," for purposes of this rule, means a public or private school that has met standards considered to be essential for the operation of a quality school program and has received formal approval by the Northwest Accreditation Commission.~~

~~D. "Active educator," for purposes of this rule, means an individual holding a valid license issued by the Board who is employed by a Utah public LEA, accredited private school, or USOE, or who was employed by a Utah public LEA or accredited private school in a role covered by the license for at least three years in the individual's renewal period.~~

~~E. "Active educator license" means a license that is currently valid for employment in a position requiring an educator license.~~

~~F. "Board" means the Utah State Board of Education.~~

~~G. "College/university course" means a course taken through an institution approved under Section 53E-6-303.~~

~~H. "Course work successfully completed" for purposes of this rule means the student earns a grade C or better in approved university or university level course work or USOE professional learning credit.~~

~~I. "Documentation of professional learning activities" means:~~

~~(1) an original student transcript of university/college courses;~~

~~(2) an LEA or USOE sponsored electronic record of professional learning activities;~~

~~(3) a summary, explanation, or copy of the product of a professional learning activity signed by the educator's supervisor or a licensed administrator;~~

NOTICES OF PROPOSED RULES

(4) a certificate of completion for an approved professional learning conference, workshop, institute, symposium, educational travel experience or staff development; or

(5) an agenda or conference program demonstrating sessions and duration of professional learning activities.

J. "Educational research" means conducting research on education issues or investigating education innovations.

K. "Inactive educator" means an individual:

(1) who holds a valid license issued by the Board;

(2) who is not currently employed by a Utah public LEA or accredited private school; and

(3) who was employed by a Utah public LEA or accredited private school in a role covered by the license for less than three years in the individual's renewal period.

L. "Inactive educator license" means a license issued by the Board, other than a suspended or revoked license, that is currently not valid due to the holder's failure to complete requirements for license renewal.

M. "LEA" or "local education agency" means a school district or a charter school.

N. "Level 1 license" means a Utah professional educator license issued:

(1) to an applicant upon completion of an approved preparation program or an alternative preparation program; or

(2) to an applicant that holds an educator license issued by another state or country that has also met all ancillary requirements established by law or rule.

O. "Level 2 license" means a Utah professional educator license issued to an applicant after the applicant meets the following:

(1) completion of all requirements for a Level 1 license;

(2) satisfaction of requirements under R277-522 for a teacher whose employment as a Level 1 licensed educator began after January 1, 2003 in a Utah public LEA or accredited private school;

(3) completion of:

(a) at least three years of successful education experience in a Utah public LEA or accredited private school; or

(b)(i) one year of successful education experience in a Utah public LEA or accredited private school; and

(ii) at least three years of successful education experience in a public LEA or accredited private school outside of Utah; and

(4) completion of any additional requirements established by law or rule.

P. "Level 3 license" means a Utah professional educator license issued to an educator who:

(1) holds a current Utah Level 2 license; and

(2)(a) received National Board Certification;

(b) received a doctorate in education or in a field related to a content area in a unit of:

(i) the public education system; or

(ii) an accredited private school; or

(c) holds a Speech Language Pathology area of concentration and has obtained American Speech Language Hearing Association (ASHA) certification.

Q. "License" means an authorization which permits the license holder to serve in a professional capacity in a public LEA or accredited private school.

R. "Licensed administrator" means:

(1) an individual holding an active educator license that is valid for employment in a public school administrative position; or

(2) an individual currently employed by a Utah charter school in an administrative position.

S. "License renewal points" means the points accumulated by a Utah license holder through activities approved under this rule for the purpose of satisfying requirements of Section 53E-6-201.

T. "National Board Certification" means the successful completion of the National Board for Professional Teaching Standards (NBPTS) process, a three-year process, that may include:

(1) national content area assessment;

(2) an extensive portfolio; and

(3) assessment of video taped classroom teaching experience.

U. "Professional growth plan" means a plan created and reviewed annually by an active educator and the educator's direct supervisor that details the professional goals of the educator based on the Utah Effective Teaching and Educational Leadership Standards consistent with R277-520 and related to the educator's self assessment and formal evaluation required under Section 53G-11-504.

V. "Professional learning" means engaging in activities that improve or enhance an educator's practice.

W. "Professional learning plan" means a document prepared by a Utah educator consistent with this rule.

X. "Superintendent" means the State Superintendent of Public Instruction or the Superintendent's designee.

Y. "University level course" means a course:

(1) that has the same academic rigor and requirements of a university or college course;

(2) taught by appropriately trained individuals; and

(3) designated as a university level course by the Superintendent.

Z. "UPPAC" means the Utah Professional Practices Advisory Commission under Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission.

AA. "USOE" means the Utah State Office of Education.

BB. "USOE professional learning credit" means a course, approved by the Superintendent under R277-519-3, that educators may participate in to:

(1) renew a license;

(2) teach in another subject area; or

(3) teach at another grade level.

CC. "Verification of employment" means official documentation of employment as an educator listing the educator's assignment and years of service, signed by the supervising administrator.

R277-500-3. Educator License Renewal Requirements.

A. Professional Learning Plan for Active Educators

(1) An active educator, in collaboration with the active educator's supervisor, shall develop and maintain a professional learning plan as a subset of the active educator's professional growth plan.

(2) The professional learning plan shall outline the professional learning activities in which the educator will participate during the educator's current license renewal cycle;

(3) The professional learning plan shall be developed by taking into account:

(a) the educator's professional goals;

(b) curriculum relevant to the educator's current or anticipated assignment;

(c) goals and priorities of the LEA and school;

(d) available student data relevant to the educator's current or anticipated assignment;

~~(e) feedback from the educator's yearly evaluation required under Section 53G-11-504;~~

~~(f) the requirements under R277-522 if the educator is a Level 1 licensed educator.~~

~~(4) The professional learning plan for active educators shall include two hours of professional learning on youth suicide prevention consistent with Section 53G-9-704.~~

~~(5) The professional learning plan shall be reviewed and signed annually by the educator and supervisor and may be adjusted as appropriate.~~

~~(6) The educator is responsible for creation of the professional learning plan in collaboration with the designated supervisor.~~

~~(7) The educator is responsible for maintaining documentation associated with the plan and the annual review of the plan.~~

~~(8) The LEA may create tools or policies or both to assist educators in meeting this responsibility.~~

~~B. Professional Learning Plan for Inactive Educators~~

~~(1) All inactive educators intending to renew an educator license shall, in collaboration with a licensed administrator, develop and maintain a professional learning plan.~~

~~(2) The professional learning plan shall outline the professional learning activities in which the educator will participate during the educator's current license renewal cycle.~~

~~(3) The plan shall take into account:~~

~~(a) the educator's professional goals;~~

~~(b) current license areas of concentration and endorsements;~~

~~(c) current trends relevant to the educator's current license areas of concentration and endorsements;~~

~~(d) the Utah Core Standards relevant to the educator's current license areas of concentration and endorsements;~~

~~(4) The professional learning plan shall be reviewed and signed by the educator and a licensed administrator at the beginning of the license renewal cycle and again at the end of the license renewal cycle.~~

~~(5) The educator shall develop the professional learning plan and maintain documentation of the plan.~~

~~C. License Renewal Points~~

~~(1) To be valid for renewal, the professional learning plan shall document that the educator has earned the appropriate number of license renewal points as defined in R277-500-3.~~

~~(2) License holders may accrue license renewal points beginning with the date of each new license renewal.~~

~~(3) A Level 1 license holder shall earn at least 100 license renewal points in each three year period. A Level 1 license may only be renewed consistent with R277-504-3D.~~

~~(4) A Level 2 license holder shall earn at least 200 license renewal points in each 5 year period.~~

~~(5) A Level 3 license holder shall earn at least 200 license renewal points in each 7 year period.~~

~~D. Documentation~~

~~(1) Each Utah license holder shall be responsible for maintaining documentation supporting completion of the professional learning plan.~~

~~(2) It is the educator's responsibility to retain documentation of professional learning activities with appropriate signatures.~~

~~(3) All documentation relevant to the professional learning plan shall be retained by the educator for a minimum of two years from the designated renewal date.~~

~~E. Educator Ethics Review~~

~~(1) Completion of the USOE Educator Ethics Review shall be required for the renewal of a Utah educator license beginning January 1, 2011.~~

~~(2) No license may be renewed prior to the completion of the USOE Educator Ethics Review.~~

~~(3) The Ethics Review shall be completed within one calendar year prior to license renewal.~~

~~F. The Superintendent may renew an educator's license if:~~

~~(1) the educator's background check is complete; and~~

~~(2) the educator is currently enrolled in ongoing monitoring through registration with the systems described in Section 53G-11-404.~~

R277-500-4. Educator License Renewal Procedures.

~~A. An active educator license holder shall satisfy the final review and obtain the appropriate signatures regarding completion of the professional learning plan between January 1 and June 30 of the educator's assigned renewal year.~~

~~(1) A Level 2 or 3 educator license holder who has completed all additional requirements for renewal shall complete the online renewal provided by USOE between January 1 and June 30 of the educator's assigned renewal year.~~

~~(2) A Level 1 educator license holder who has completed all additional requirements for renewal shall submit the Professional Learning Plan Completion Form to the USOE between January 1 and June 30 of the educator's assigned renewal year. Forms that are not complete or do not bear original signatures shall not be processed.~~

~~(3) An educator's failure to complete the online process or submit the completion form consistent with deadlines in this rule shall result in beginning anew the administrative licensure process, including all attendant fees and criminal background checks.~~

~~B. An inactive educator license holder shall satisfy the final review and obtain the appropriate signatures regarding completion of the professional learning plan within one calendar year prior to the date on which the inactive educator license holder is directed/scheduled to renew the license.~~

~~(1) A Level 2 or 3 educator license holder who has completed all additional requirements for renewal shall complete the online renewal process provided by USOE between January 1 and June 30 of the educator's assigned renewal year.~~

~~(2) A Level 1 educator license holder who has completed all additional requirements for renewal shall submit the Professional Learning Plan Completion Form to the USOE between January 1 and June 30 of the educator's assigned renewal year. Forms that are not complete or do not bear original signatures shall not be processed.~~

~~(3) An educator's failure to complete the online process or submit the completion form consistent with deadlines shall result in beginning anew the licensure process, including all attendant fees and criminal background checks.~~

~~C.(1) An educator shall obtain the signature of the educator's direct administrative supervisor on the educator's renewal form.~~

~~(2) The educator's direct administrative supervisor described in R277-500-4C(1) shall be a licensed administrator.~~

~~(3) If an educator's supervisor is not a licensed administrator then the form shall be signed by the next highest administrative supervisor who is a licensed administrator.~~

~~(4) If the educator is the highest administrative authority in the LEA then the form shall be signed by the president or chairperson of the LEA's governing board.~~

~~_____ D. An educator who is seeking a license renewal shall obtain the signature of a licensed administrator on the educator's license renewal form.~~

~~_____ E.(1) The Superintendent shall charge a fee, set by the Superintendent, to an educator seeking renewal from an inactive status or requesting level changes.~~

~~_____ (2) The Superintendent shall charge an educator with an active license renewal fee consistent with R277-502~~

~~_____ F. The Superintendent shall audit a random sample of approximately ten percent of the annual online renewals.~~

~~_____ G. An educator selected for an audit described in R277-500-4F:~~

~~_____ (1) shall submit the Professional Learning Plan Completion Form with the appropriate signatures to the USOE in a timely manner.~~

~~_____ (2) shall receive a warning letter and may be referred to UPPAC if documentation is not submitted as requested.~~

~~_____ (3) shall be referred to UPPAC for possible license discipline if the documentation reveals fraudulent or unprofessional actions.~~

~~_____ H. The Superintendent may review or audit renewal transactions including the professional learning plan, signatures, and documentation of professional learning activities.~~

~~**R277-500-5. Categories of Acceptable Activities for License Renewal:**~~

~~_____ A(1) An educator may earn licensure renewal points based on the educator's employment in a position requiring a Utah educator license during the educator's license cycle.~~

~~_____ (2) An educator may only count years of employment with satisfactory performance evaluations for license renewal points.~~

~~_____ (3) A Level 1 license holder may earn 25 license renewal points per year of employment to a maximum of 50 points per license cycle.~~

~~_____ (4) A Level 2 or 3 license holder may earn 35 license renewal points per year of employment to a maximum of 105 points per license cycle.~~

~~_____ B(1) An educator shall complete a college or university course with a C or better, or a pass, to have the course apply to the educator's license.~~

~~_____ (2) Each semester hour of university or college credit, as recorded on an official transcript, equals 18 license renewal points.~~

~~_____ C(1) USOE professional learning credit:~~

~~_____ (a) shall be approved as described in R277-519-3; and~~

~~_____ (b) shall be successfully completed through attendance and through completion of required project(s).~~

~~_____ (2) Each semester credit hour equals 15 license renewal points.~~

~~_____ (3) An LEA may request approval of USOE professional learning credit by submitting a request to the Superintendent through the USOE sponsored online professional learning tracking system.~~

~~_____ (4) An LEA shall request approval from the Superintendent at least four weeks prior to the beginning date of the scheduled professional learning activity.~~

~~_____ (5) The professional learning credit may be denied if the LEA does not seek approval from the Superintendent in advance.~~

~~_____ D. An LEA sponsored or approved professional learning activity:~~

~~_____ (1) shall be approved by the LEA at least four weeks prior to the scheduled activity; and~~

~~_____ (2) may include LEA or school based professional learning such as:~~

~~_____ (a) participating in professional learning communities;~~
~~_____ (b) development of LEA or school curriculum;~~
~~_____ (c) planning and implementation of a school improvement plan;~~

~~_____ (d) mentoring a Level 1 teacher;~~
~~_____ (e) engaging in instructional coaching;~~

~~_____ (f) conducting action research;~~
~~_____ (g) studying student work with colleagues to inform instruction.~~

~~_____ E. Each clock hour of scheduled professional learning activity time equals one license renewal point, not to exceed 25 points per activity per year.~~

~~_____ F(1) Acceptable alternative professional learning activities for an educator include activities that enhance or improve education; yet may not fall into a specific category if the activities are approved by:~~

~~_____ (a) the educator's supervisor;~~
~~_____ (b) by a licensed administrator if the educator is an inactive educator; or~~

~~_____ (c) the Superintendent, with prior written approval by the Superintendent.~~

~~_____ (2) Each clock hour of participation equals one license renewal point, not to exceed 25 points per activity.~~

~~_____ G. Conferences, workshops, institutes, symposia, or staff development programs:~~

~~_____ (1) Acceptable workshops and programs shall be approved by the educator's supervisor, by a licensed administrator if the educator is an inactive educator, or with prior written approval by the Superintendent.~~

~~_____ (2) Each clock hour of participation equals one license renewal point, not to exceed 25 points per activity.~~

~~_____ G. Content and pedagogy testing:~~

~~_____ (1) Acceptable tests include those approved by the Board.~~

~~_____ (2) Each Board approved test score report submitted, with a passing score, equals 25 license renewal points.~~

~~_____ (3) Each test must be related to the educator's current or potential license area(s) or endorsement(s).~~

~~_____ (4) No more than two test score reports may be submitted in a license cycle.~~

~~_____ H. Utah university sponsored cooperating teachers:~~

~~_____ (1) An educator working as a cooperating teacher with one or more student teachers may earn license renewal points.~~

~~_____ (2) Each clock hour spent supervising, collaborating with, and mentoring assigned student teachers equals one license renewal point not to exceed 25 points per license renewal cycle.~~

~~_____ I. Service in a leadership role in a national, state-wide, or LEA-recognized professional education organization:~~

~~_____ (1) Acceptable service shall be approved by the educator's supervisor or by a licensed administrator if the educator is an inactive educator.~~

~~_____ (2) Each clock hour of participation equals one license renewal point, not to exceed 10 points per year.~~

~~_____ J. Educational research and innovation that results in a final, demonstrable product:~~

~~_____ (1) Acceptable activities shall be approved by the educator's supervisor or by a licensed administrator if the educator is an inactive educator.~~

~~_____ (2) The research activity shall be consistent with school and LEA policy.~~

~~_____ (3) Each clock hour of participation equals one license renewal point, not to exceed 35 points per activity.~~

~~K. Substituting in a Utah public LEA or accredited private school:~~

~~(1) shall be considered an acceptable professional learning activity only for inactive educators paid and authorized as substitutes.~~

~~(2) Two hours of documented substitute time equals one license renewal point, not to exceed 25 points per year or 50 points per license cycle.~~

~~(3) Verification of hours shall be documented on LEA or school letterhead, list dates of employment, and signed by the supervising administrator.~~

~~L. Paraprofessional or volunteer service in a Utah public LEA or accredited private school:~~

~~(1) shall be considered an acceptable professional learning activity only for inactive educators.~~

~~(2) Three hours of documented paraprofessional or volunteer service equals one license renewal point, not to exceed 25 points per year or 50 points per license cycle.~~

~~(3) Verification of hours shall be documented on LEA or school letterhead, list dates of service, and signed by the supervising administrator.~~

~~M. Credit for LEA lane change or other purposes is determined by the LEA and is awarded at the LEA's discretion. USOE professional learning credit should not be assumed to be credit for LEA purposes, such as salary or lane change credit.~~

R277-500-6. Board Directive to Educator License Holders for Fingerprint Background Check.

~~A(1) The Superintendent shall require a licensed educator or license applicant to submit to a fingerprint background check and ongoing monitoring by the Superintendent through registration with the systems described in Section 53G-11-404 as a condition of licensure in Utah.~~

~~(2) A licensed educator shall submit a new fingerprint background check for ongoing monitoring within one calendar year prior to the date of the educator's next license renewal after July 1, 2015.~~

~~(3) A license applicant shall submit a new fingerprint background check for ongoing monitoring by the Superintendent.~~

~~(a) If a license applicant submits a new fingerprint background check on or after July 1, 2015, the Superintendent shall require the license applicant to be enrolled in ongoing monitoring before the Superintendent may issue a new license to the license applicant.~~

~~(b) The Superintendent may issue a new license to a license applicant without enrolling the license applicant in ongoing monitoring if the license applicant's background check was cleared:~~

~~(i) less than three years prior to the issue date of the license; and~~

~~(ii) prior to July 1, 2015;~~

~~(4) The Superintendent shall discontinue monitoring an individual through the systems described in Section 53G-11-404:~~

~~(a) for a licensed educator, one year after the expiration of the most recently issued license; or~~

~~(b) for a license applicant, five years after the submission of the background check.~~

~~(5) If the fingerprint background check for a licensed educator or a license applicant is incomplete or under review by the Utah Professional Practices Advisory Commission (UPPAC), the individual's CACTUS file will direct the reviewer of the file to the Superintendent for further information.~~

~~B. The Superintendent may direct a Utah educator license holder to have a criminal fingerprint background check under Section 53E-6-401 for good cause shown.~~

~~C. If an educator license holder fails to comply with the directive in a reasonable time, following reasonable notice, and adequate due process, the educator license holder's license may be put into a pending status in the educator's CACTUS file subject to the educator license holder's compliance with the directive.~~

~~D. The Board or its designee may review an educator license holder's compliance with the directive prior to the final decision about the educator license holder's license status.~~

R277-500-7. Exceptions or Waivers to this Rule.

~~A. The Superintendent may make exceptions to the provisions of this rule for unique and compelling circumstances if the exception is granted consistent with the purposes of this rule and the authorizing statutes.~~

~~B. An educator may request an exception described in R277-500-7A.~~

~~C. An educator shall submit a request to the Superintendent for an exception described in R277-500-7C in writing at least 30 days prior to the license holder's renewal date.~~

~~D. The Superintendent shall approve or deny a request for an exception described in R277-500-7C in a timely manner.~~

~~E. A denial of a request described in R277-500-7D is not subject to administrative appeal.~~

~~KEY: educator license renewal, professional learning, fingerprint background check~~

~~Date of Enactment or Last Substantive Amendment: August 26, 2015~~

~~Notice of Continuation: July 1, 2015~~

~~Authorizing, and Implemented or Interpreted Law: 53E-6-201; 53E-3-401(4)]~~

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-603	Filing No. 52783

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
R277-603. Autism Awareness Restricted Account Distribution
3. Purpose of the new rule or reason for the change:
The purposes of this rule change is to update the deadline for the Superintendent to announce the availability of funds in accordance with this rule.
4. Summary of the new rule or change:
The deadline for the Superintendent to announce the availability of funds has been updated in Rule R277-603 from March to May.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have material fiscal impact on state government revenues or expenditures. The change in the date for announcement of availability of funds should not have any significant impacts.
B) Local governments:
This rule change is not expected to have material fiscal impact on local governments' revenues or expenditures. The change in the date for announcement of availability of funds should not have any significant impacts.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule change is not expected to have material fiscal impact on small businesses' revenues or expenditures. The change in the date for announcement of availability of funds should not have any significant impacts.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have material fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The change in the date for announcement of availability of funds should not have any significant impacts.

F) Compliance costs for affected persons:

There are no independent compliance costs for affected persons. The change in the date for announcement of availability of funds should not have any significant impacts.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable large businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

B) Name and title of department head commenting on the fiscal impacts:

Sydnee Dickson, State Superintendent

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Article X, Section 3	Subsection 53E-3-401(4)	Section 53F-9-401
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/01/2020

10. This rule change MAY become effective on: 07/08/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and

will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	05/15/2020
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R277. Education, Administration.

R277-603. Autism Awareness Restricted Account Distribution.

R277-603-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Section 53F-9-401, which authorizes the Superintendent to distribute autism awareness funds appropriated by the Legislature; and
 - (c) Subsection 53E-3-401(4); which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to provide procedures, timelines and accountability for distribution of funds received in the Autism Awareness Restricted Account and subsequently appropriated by the Legislature to eligible organizations.

R277-603-2. Definitions.

~~[(1)]~~"Autism Awareness Restricted Account" means the account established under Section 53F-9-401.

R277-603-3. Procedures.

(1) The Superintendent shall provide an application for an organization that meets the qualifications of Subsection 53F-9-401(3), to apply for available Autism Awareness Restricted Account funds to the extent of the legislative appropriation.

(2) The Superintendent shall review applications and select qualified recipients.

(3) An application shall include a budget section, a plan for use of the funds by eligible charitable organizations consistent with Subsection 53F-9-401(3), and other information as requested.

(4) The Superintendent shall distribute funds to eligible charitable organizations, to the extent of funds appropriated, annually.

R277-603-4. Timelines.

(1) The Superintendent shall announce the availability of funds annually by ~~March~~ May 15.

(2) Applicants may apply for funds on forms available from the Superintendent.

(3) Applications shall be due June 5 annually.

(4) Applicants identified for funding shall be notified no later than July 1 annually.

(5) The Superintendent shall distribute funds annually in July.

R277-603-5. Accountability.

(1) The Superintendent shall require organizations that receive funding to complete a year-end report describing and documenting the use of funds consistent with the law and this rule.

(2) The year-end report may require an independent audit or review of a funded program.

KEY: autism awareness, restricted account
Date of Enactment or Last Substantive Amendment: [~~November 7, 2016~~2020]
Notice of Continuation: September 15, 2016
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53F-9-401; 53E-3-401(4)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R307-410-4	Filing No. 52751

Agency Information

1. Department:	Environmental Quality	
Agency:	Air Quality	
Building:	Multi Agency State Office Building	
Street address:	195 N 1950 W	
City, state:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144820	
City, state, zip:	Salt Lake City, UT 84116-4820	
Contact person(s):		
Name:	Phone:	Email:
Liam Thrailkill	801-536-4419	lthrailkill@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R307-410-4. Modeling of Criteria Pollutant Impacts in Attainment Areas
3. Purpose of the new rule or reason for the change:
The amendment to Section R307-410-4 is being done in anticipation of redesignation of attainment for PM2.5 nonattainment areas. The amendment adds a PM2.5 modeling threshold for attainment areas. When an area is designated attainment, modeling is an important part of the New Source Review (NSR) program to ensure that a modification or new source will not cause or contribute to a violation of the NAAQS. The Division of Air Quality wants to ensure that the appropriate requirements are in place for evaluating the impact of a new source or modification after the redesignation of the PM2.5 nonattainment areas.
4. Summary of the new rule or change:
The amendment adds PM2.5 to the modeling thresholds for attainment areas. The PM2.5 modeling threshold has been added to Table 1 in Section R307-410-4. The proposed modeling threshold of 10 tons per year (tpy) is the PM2.5 significant emission rate (SER) for direct emissions of primary PM2.5 established by EPA in 40 CFR

51.166(b)(23).

A public hearing is set for Wednesday, July 2, 2020. Further details may be found below. The hearing will be cancelled should no request for one be made by Tuesday, July 1, 2020, at 5:00PM MDT. The final status of the public hearing will be posted on Tuesday, July 1, after 5:00PM MDT. The status of the public hearing may be checked at the following website location under the corresponding rule. <https://deq.utah.gov/public-notices-archive/air-quality-rule-plan-changes-open-public-comment>

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This amendment will not result in any costs or savings to the state budget as this amendment to this rule is covered in the existing permitting process.
B) Local governments:
This amendment will not result in any costs or savings to local governments as this amendment does not apply to local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
Small businesses may have costs due to the amendment to Section R307-410-4. The amendment adds PM2.5 to the modeling threshold for attainment areas. If a small business applies for a permit for a new approval order or a modification to an existing approval order that meets or exceeds the PM2.5 threshold of 10 tpy, the small business would then have to conduct modeling for PM2.5. In the past two years, there were one to two permit actions per year that would have been impacted by the proposed PM2.5 threshold. The anticipated cost of modeling is anywhere from \$5,000 to \$10,000. For a conservative estimate, the financial impact is based on two permit actions per year that exceed the PM2.5 threshold and a cost of \$10,000 for a modeling impact analysis, for a total of \$20,000 per year. There is no definite answer as to how many small businesses this amendment would impact in the future, but the table below shows the financial impact based on recent permit actions.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
Non-small businesses may have costs due to the amendment to Section R307-410-4. The amendment adds PM2.5 to the modeling threshold for attainment areas. If a non-small business applies for a permit for a new approval order or a modification to an existing approval order that meets or exceeds the PM2.5 threshold of 10 tpy, the non-small business would then have to conduct modeling for PM2.5. In the past two years there were one to two permit actions per year that would have

been impacted by the proposed PM2.5 threshold. The anticipated cost of modeling is anywhere from \$5,000 to \$10,000. For a conservative estimate, the financial impact is based on two permit actions per year that exceed the PM2.5 threshold and a cost of \$10,000 for a modeling impact analysis, for a total of \$20,000 per year. There is no definite answer as to how many non-small businesses this amendment would impact in the future, but the table below shows the financial impact based on recent permit actions.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The amendment will not result in any costs or savings to persons other than small businesses, non-small businesses, state, or local government entities because this rule would not apply to those persons.

F) Compliance costs for affected persons:

There are no compliance costs for affected persons due to the rule amendment because this rule amendment is not applicable to other persons.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$20,000	\$20,000	\$20,000
Non-Small Businesses	\$20,000	\$20,000	\$20,000
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$40,000	\$40,000	\$40,000
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	-\$40,000	-\$40,000	-\$40,000

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

The amendments made to Section R307-410-4 could have a fiscal impact on small and non-small businesses, but the impact is anticipated to be to few businesses overall. Many new approval orders or modifications to existing approval orders for non-small businesses exceeding this proposed PM2.5 threshold will likely also trigger modeling for other pollutants in Table 1 of Section R307-410-4 and PM2.5 would be added to the already required modeling analyses. The number of businesses this will fiscally impact is anticipated to be low.

B) Name and title of department head commenting on the fiscal impacts:

L. Scott Baird, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 19-2-104

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/02/2020

B) A public hearing (optional) will be held:

On:	At:	At:
07/02/2020	09:00AM MDT	Division of Air Quality, 195 N 1950 W, Multi Agency State

NOTICES OF PROPOSED RULES

		Office Building, Fourth Floor, Salt Lake City, UT For remote connection: Conference Line: 1-877-820-7831, Passcode: 915298#
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10. This rule change MAY become effective on:	07/08/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

Agency Authorization Information

Agency head or designee, and title:	Bryce Bird, Director	Date:	04/21/2020
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**R307. Environmental Quality, Air Quality.
R307-410. Permits: Emissions Impact Analysis.
R307-410-4. Modeling of Criteria Pollutant Impacts in Attainment Areas.**

Prior to receiving an approval order under Rule R307-401, a new source in an attainment area with a total controlled emission rate per pollutant greater than or equal to amounts specified in Table 1, or a modification to an existing source located in an attainment area which increases the total controlled emission rate per pollutant of the source in an amount greater than or equal to those specified in Table 1, shall conduct air quality modeling, as identified in Section R307-410-3, to estimate the impact of the new or modified source on air quality unless previously performed air quality modeling for the source indicates that the addition of the proposed emissions increase would not violate a National Ambient Air Quality Standard, as determined by the director.

TABLE 1

POLLUTANT	EMISSIONS
sulfur dioxide	40 tons per year
oxides of nitrogen	40 tons per year
PM10 - fugitive emissions and fugitive dust	5 tons per year
PM10 - non-fugitive emissions [or non-fugitive dust]	15 tons per year
<u>PM2.5 - combined non-fugitive emissions, fugitive dust, and fugitive emissions</u>	<u>10 tons per year</u>
carbon monoxide	100 tons per year
lead	0.6 tons per year

**KEY: air pollution, modeling, hazardous air pollutant, stack height
Date of Enactment or Last Substantive Amendment: ~~November 25, 2019~~ 2020**

Notice of Continuation: May 15, 2017

Authorizing, and Implemented or Interpreted Law: 19-2-104

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R357-29	Filing No. 52785

Agency Information

1. Department:	Governor	
Agency:	Economic Development	
Building:	World Trade Center	
Street address:	60 E South Temple	
City, state:	Salt Lake City, UT 84111	
Mailing address:	60 E South Temple	
City, state, zip:	Salt Lake City, UT 84111	
Contact person(s):		
Name:	Phone:	Email:
Dane Ishihara	801-538-8864	dishihara@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
R357-29. Rural County Grant Program Rule
3. Purpose of the new rule or reason for the change:
S.B. 95, passed by the Legislature during the 2020 General Session, created the Rural County Grant Program. The new statutory language permits the office to promulgate rules to administer the program. The purpose of this rule filing is to clarify the standards for participation in the program.
4. Summary of the new rule or change:
This rule will codify the Rural County Grant Program by establishing definitions, authority, application requirements, funding distributions, and reporting and cooperation requirements. The program will provide grants to counties that have created County Economic Development Advisory Boards.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
There is no aggregate anticipated cost or savings to the state budget. The rule is merely creating the requirements for the Rural County Grant Program that was created by the passing of S.B. 95 (2020).

B) Local governments:			
There is no aggregate anticipated cost or savings to local governments because local governments are not required to comply with or enforce this rule			
C) Small businesses ("small business" means a business employing 1-49 persons):			
There is no aggregate anticipated cost or savings to small businesses because this proposed rule does not create new obligations for small businesses, nor does it increase the costs associated with any existing obligation. Participation in the program is optional.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
There is no aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities because this proposed rule does not create new obligations for persons other than small businesses, businesses, or local government entities, nor does it increase the costs associated with any existing obligation.			
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):			
There is no aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities because this proposed rule does not create new obligations for persons other than small businesses, businesses, or local government entities, nor does it increase the costs associated with any existing obligation.			
F) Compliance costs for affected persons:			
There are no compliance costs for affected persons because participation in the program is optional.			
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Executive Director of the Governor's Office of Economic Development, Val Hale, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

The purpose of this proposed rule filing is to clarify the standards for participation in the Rural County Grant Program. The program is designed to provide grants to counties that have created County Economic Development Advisory Boards. Thus, this rule will have no impact on businesses.

B) Name and title of department head commenting on the fiscal impacts:

Val Hale, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 17-54-103	Section 63N-4-104	
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members.

NOTICES OF PROPOSED RULES

Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	07/01/2020
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10. This rule change MAY become effective on:	07/08/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Val Hale, Executive Director	Date:	05/15/2020
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R357. Governor, Economic Development.
R357-29. Rural County Grant Program Rule.
R357-29-101. Title.

This rule is known as the "Rural County Grant Program Rule."

R357-29-102. Definitions.

The following terms are defined as follows:

(1) "Annual Distribution" means the grant funding distributed evenly to each qualifying rural county in an amount up to and including \$200,000.

(2) "CED board" means a County Economic Development Advisory Board defined under Section 17-54-102.

(3) "GOED" means the Governor's Office of Economic Development.

R357-29-103. Authority.

This rule is adopted by the office under the authority of Sections 17-54-103 and 63N-4-104.

R357-29-104. Content of Applications.

(1) The following content shall, at a minimum, be included in each application for an annual distribution:

(a) name of applying county;

(b) tax ID;

(c) name of fiscal agent;

(d) amount of grant funding requested; and

(e) responsible contacts:

(i) name;

(ii) full mailing address;

(iii) telephone number; and

(iv) email address.

(2) The following documentation shall, at a minimum, be included in each application for an annual distribution grant:

(a) the entity's W9 form, or the county's state vendor number if the county is currently a state vendor;

(b) copy of resolution forming the CED board;

(c) minutes from the legislative body council meeting detailing the official establishment of a CED board;

(d) letter of support from the CED board; and

(e) list of CED board members including:

(i) names;

(ii) titles;

(iii) organizations each member represents; and

(iv) contact information.

R357-29-105. Funding Distribution.

(1) After GOED approval of an annual distribution the county may receive up to 100% of the total grant amount.

KEY: Rural County Grant, economic development

Date of Enactment or Last Substantive Amendment: 2020

Authorizing, and Implemented or Interpreted Law: 17-54-103; 63N-4-104

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R384-201	Filing No. 52772

Agency Information

1. Department:	Health	
Agency:	Disease Control and Prevention, Health Promotion	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state:	Salt Lake City, UT 84116	
Mailing address:	PO Box 142102	
City, state, zip:	Salt Lake City, UT 84114-2102	
Contact person(s):		
Name:	Phone:	Email:
BettySue Hinkson	801-419-1078	bhinkson@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
R384-201. School-Based Vision Screening for Students in Public Schools
3. Purpose of the new rule or reason for the change:
This amendment addresses areas of concern submitted by stakeholders such as schools, Utah State Board of Education, and school nurses.
4. Summary of the new rule or change:
It was reported that local education agencies (LEAs) found the original rule unclear on what was required for students

enrolled in special education. The revisions clarify the previously vague statements. There are also some minor grammatical corrections included.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

The Utah Department of Health's (Department) Environment, Policy, and Improved Clinical Care Program (EPICC Program) will monitor the vision screening requirement in Utah public schools. It is estimated that this rule will cost EPICC program \$32,000 annually starting with FY 2020 to monitor. The EPICC program is expected to experience an ongoing direct fiscal cost of \$32,000.

B) Local governments:

Across the 1,253 public schools (elementary and secondary schools North American Industry Classification System (NAICS) 611110) will be required to provide vision screening to students. It is estimated that the cost to each school will be an ongoing cost of \$905 for school nurse salary and benefits. Local governments are expected to experience direct fiscal costs of \$1,133,965 ongoing.

C) Small businesses ("small business" means a business employing 1-49 persons):

There are six types of healthcare providers who are currently allowed by statute to provide the vision screening required to enter Utah schools: optometrist (NAICS 621320), MD physician (NAICS 621111), DO physician (NAICS 621111), advance practice registered nurse (NAICS 621399), physician assistant (NAICS 621399), vision therapist (NAICS 621399). Only two of these six types of providers are classified as eye care professionals (optometrist and ophthalmologist) who may provide a comprehensive eye exam for referrals when a student is not able to pass the vision screening. It is not possible to determine the number of referrals to an eye care professional. It is also not possible to determine the number of optometry and ophthalmology offices, and to further determine if those offices are small businesses or non-small businesses. The precise fiscal benefit to small healthcare provider business cannot be estimated due to the unavailability of data and high cost of conducting research to determine the estimates.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

The regulatory and fiscal impact to non-small businesses is inestimable. It is unknown how many students may require referral to an eye care professional (optometrist or ophthalmologist) for a more comprehensive eye exam.

Additionally, a doctor of ophthalmology is included in the physician category under both NAICS and Utah Division of Occupational and Professional Licensing. It is unknown how many licensed physicians specialize in ophthalmology. According to Department of Workforce

Services Firm Find Data, no optometrists are listed as a non-small business.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There are 658,952 students in Utah public schools that could experience an inestimable indirect non-fiscal benefit by receiving vision screening at no cost to their family. These screenings can detect many vision difficulties that may have gone undetected and untreated. It is difficult to estimate the monetary value of good vision health. An exact estimate of the non-fiscal benefit to these students is not possible because the data necessary to determine the benefit is not available.

F) Compliance costs for affected persons:

It will cost local governments \$1,133,965 per year to comply with these rule changes.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$32,000	\$32,000	\$32,000
Local Governments	\$1,133,965	\$1,133,965	\$1,133,965
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$1,165,965	\$1,165,965	\$1,165,965
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

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Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	-\$1,165,965	-\$1,165,965	-\$1,165,965
H) Department head approval of regulatory impact analysis:			
This fiscal analysis has been reviewed and approved by Joseph K. Miner, M.D. Executive Director of the Utah Department of Health.			
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:			
The number of students who may need a referral to an eye care professional is not known, therefore fiscal impact on businesses is inestimable at this time.			
B) Name and title of department head commenting on the fiscal impacts:			
Joseph K. Miner, MD, Executive Director			

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):		
Section 53G-9-404		

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	07/01/2020

10. This rule change MAY become effective on:	07/08/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	05/15/2020
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R384. Health, Disease Control and Prevention, Health Promotion. R384-201. School-Based Vision Screening for Students in Public Schools.

R384-201-1. Authority.

(1) This rule is authorized by Subsection 53G 9-404 and 26-1-30 (33).

(2) The Department of Health is authorized under the rule to set standards and procedures for vision screening required by this chapter, which shall include a process for notifying the parent or guardian of a student who fails a vision screening or is identified as needing follow-up care.

R384-201-2. Definitions.

(1) "Eye care professional" means an ophthalmologist or optometrist.

(2) IEP means an Individualized Education Plan.

(3) "Instrument based screening" means an automated screening technique that facilitates vision screening ~~[in students who are]~~for a student who is difficult to screen such as ~~[children]~~a student with a developmental delay[s].

(4) LEA means local education agency.

(5) "Screening certificate" means written documentation of vision screening or comprehensive eye examination by a health care professional as defined in Subsection 53G-9-404 (1)(a) done within one year of entering a public school.

(6) "Significant visual impairment" means a visual impairment severe enough to interfere with learning. The term is the designation required for a child to be eligible for services from a teacher of a student[students] with a visual impairment[s in an LEA or USDB].

(7) "Screeener" means those trained to support a school vision screening program[s for students].

~~[(8) USDB means Utah Schools for the Deaf and Blind.]~~

~~[(9)8] UDOH means the Utah Department of Health.~~

~~[(10)9] "Vision Screening" means a way to identify [students]a student with a visual impairment.~~

R384-201-3. Purpose.

The purpose of school-based vision screening is to set standards and procedures for vision screening ~~[for students]in a public school[s].~~~~[This is necessary to detect vision difficulties in students so that follow-up for potential concerns may be done by the student's parent or guardian. Vision screening is not a substitute for a complete eye exam and vision evaluation by an eye care professional.]~~

R384-201-4. Free Screening.

(1) ~~[The following students]~~A student in an LEA shall receive a free tier 1 vision screening~~[s to include tier 1 screening.]~~ as follows:

~~[(+)](a) tier 1~~ vision screening shall be conducted for ~~[all students]~~a student who is in ~~[grades]~~pre-kindergarten, kindergarten, grades 1, 3, 5, 7 or 8, and 9 or 10, and any student referred by school personnel, parent or guardian or self to rule out vision as an obstacle to learning;

~~[(2)](b) [Tenth grade students]~~a student enrolled in 10th grade may be exempt from ~~[screened]~~screening ~~[as part of their]~~if enrolled in a driver education class; and

~~(3)(c) [Students who are] a student [currently receiving services from USDB or LEA vision specialist] who [have]has a diagnosed significant visual impairment will be exempt from screening.~~

~~(4)(2) [Students]A student may be referred for [mandatory or optional] tier 2 vision screening under the following circumstances [in (a) and (b)]:~~

~~(a) [M]mandatory tier 2 screening or referral to an eye care professional [may]shall be done for [students]a student requiring education intervention such as special education referral or reevaluation, or failing benchmark reading assessment as defined by Rule R277-404 if indicated by results of the Vision Symptom Questionnaire[-];~~

~~(b) [O]optional tier 2 vision screening may be done based on parent or teacher concern[-];~~

~~(c) [Students]a student failing a tier 1 screening who [have]has been referred to an eye care professional [are]is not required to complete a tier 2 screening[-];~~

~~(d) [Instead of performing a tier 2 vision screening,-]the LEA may automatically refer the student [being referred to a tier 2 vision screening]to an eye care professional in lieu of performing a tier 2 vision screening[-]; and~~

~~(e) [If the]an LEA [does not have]without an [school nurse or other] approved tier 2 screener[-, the student being referred for a tier 2 vision screening should be automatically referred to an eye care professional] shall automatically refer the student to an eye care professional in lieu of performing a tier 2 vision screening.~~

R384-201-5. Required Screening for Students with an Individualized Education Plan.

Required screening for ~~[students]a student referred or reevaluated [identified with]for an IEP in an LEA are as follows:~~

~~(1) May only occur not more than once a year, unless the parent or adult student and LEA agree otherwise; and at least every three years unless the parent or adult student and LEA agree otherwise.~~

~~(a) A student must be reevaluated for eligibility for special education in all areas of suspected disability.~~

~~(b) If vision is an area of suspected disability, the LEA shall complete the Vision Symptom Questionnaire in conjunction with the evaluation.~~

~~(2)[+] Vision issues as a primary obstacle to learning must[have to] be ruled out using the Vision Symptom Questionnaire[as an obstacle to learning]before Specific Learning Disability [can be used as]eligibility can be determined.[criteria and~~

~~(2) Every three years, a student must be reevaluated for eligibility for special education in all areas of suspected disability, including vision.]~~

R384-201-6. Proof of Screening.

Certificate or health form documenting a vision screening or examination given within one year of entering a public school are acceptable for school entry. ~~[All students]A student less than age 9 entering a public school in Utah for the first time without proof of screening mentioned above, shall be screened during that school year.~~

R384-201-7. Training of Screeners.

(1) The LEA shall provide training annually to all ~~who assist with the screening[vision screeners prior to the start of vision screenings.] as follows:~~

~~(a) [F]the school nurse shall provide the training[shall be provided to the vision screeners]; or~~

~~(b) [Vision screeners]those assisting with screening shall view the online module developed by UDOH[referred to in 53G-9-404 (4)(b)].~~

(2) The LEA will provide training[s] in compliance with ~~material developed by UDOH[materials].~~

(3) The ~~[LEA]UDOH~~ will share vision screening training material[s] with a qualified outside ~~[entities]entity[- that provide free vision screening services in Utah schools].~~

(4) ~~The~~ UDOH will create online training ~~[modules on]for:~~

~~(a) [F]tier 1 vision screening;[-and]~~

~~(b) [Training for]those who assist with tier 1 vision [screeners]screening; and~~

~~(c) those approved to provide tier 2 vision screening[Tier 2 vision screening for school nurses or other approved tier 2 screeners].~~

R384-201-8. Screening.

(1) Screening~~[s-are]~~ is to be performed following criteria developed by UDOH.

(2) ~~[Screeners should do v]Vision screening [s] should be done early in the school [session]year to provide time [in that school year-]for adequate referral and follow-up[-to be done].~~

(3) A ~~[P]parent or guardian of a student has the right not to have their student participate in vision screening. A[H] parent[s] or guardian[s] must be notified of scheduled vision screening[s] by the [public school]LEA to provide an opportunity to opt out of screening for their student. A [P]parent or guardian choosing to opt out of vision screening for their student must do so annually and in writing.~~

~~(4) An [public school]LEA staff member should be present at all times during vision screenings including those done by a qualified outside [entities]entity.~~

(5) Screenings are to be done using material and procedures approved by UDOH. Standards and procedures are based on recommendations of ~~the American Academy of Pediatrics, the American Academy of Ophthalmology, the American Optometric Association, the National Center for Children's Vision and Eye Health, and the National Association of School Nurses[-Association].~~

(6) School vision screening is comprised of tier 1 and tier 2 screening.

(a) Tier 1 vision screening is a lower-level vision screening ~~[such as]which includes basic distance vision screening.~~

(b) Tier 2 vision screening is a higher-level evaluation that should include screening of distance and near vision. It may also include eye focusing or tracking problems, color screening, and screening for convergence insufficiency if indicated by results of the Vision Symptom Questionnaire.

(i) The approved tier 2 screener may automatically refer the student to an eye care professional in lieu of performing the tier 2 screening.

(ii) If the LEA does not have an approved tier 2 screener the LEA should automatically refer the student to an eye care professional.

(7) ~~Those [A]approved to provide vision [screeners]screening include the following:~~

~~(a) [Approved tier 1 vision screeners can be]a school nurse[s], a qualified outside [entities]entity, trained volunteer[s], or a health care professional[s] as defined in Subsection 53G-9-404 (1)(a) who [have]has completed UDOH training for tier 1 vision screening is approved to provide tier 1 vision screening[-]; and~~

~~(b) [Approved tier 2 vision screeners can only be]a school nurse[s] or a health care professional[s] as defined in Subsection 53G-9-404 (1)(a) who [have]has completed UDOH training for tier 2 vision screening is approved to provide tier 2 vision screening.~~

~~(e)(8) A [P]person[s] assisting with vision screening:~~

~~(+)(a) [M]may not profit financially from school vision screening; and~~

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~~(b)~~ (b) ~~[M]~~ may not market, advertise, or promote a business in connection with assisting with vision screening.

~~(9)~~ (9) ~~[Any]~~ A qualified outside entity ~~[that provides free vision screening services in the LEA will]~~ shall provide results of vision screening to the ~~[public school]~~ LEA.

~~(10)~~ (10) A ~~[Students]~~ student who ~~[are]~~ is not a candidate[s] for regular vision screening may be screened using an approved instrument-based screening device. Only devices approved by UDOH should be used for screening, and then only when screening with a chart is not an option. ~~[Devices are not a substitute for clinical judgement and a visual acuity test.]~~

(10) The LEA shall document ~~[all]~~ each vision screening result[s] including any referral[s] and follow-up ~~[results]~~ in the student's permanent school record.

R384-201-9. Requirements for Referral.

(1) A school nurse may rescreen any student[s] who fails initial age appropriate school vision screening to confirm results before notification to student's parent or guardian of any impairment disclosed by the vision screening recommending further evaluation by an eye care professional.

(2) The LEA shall notify, in writing within 30 days from vision screening, a student's parent or guardian of any impairment disclosed by the vision screening recommending further evaluation by an eye care professional.

R384-201-10. Vision Symptom[s] Questionnaire.

(1) The UDOH will provide ~~[schools]~~ to the LEA ~~[a]~~ the ~~[v]~~ Vision ~~[s]~~ Symptom[s] ~~[q]~~ Questionnaire ~~[that includes questions]~~ for the classroom teacher[s] to potentially identify a vision problem ~~[eye focusing or tracking problems as well as convergence insufficiency]~~. The UDOH will update the questionnaire as needed.

(2) For a student[s] who fails to achieve benchmark status on the benchmark reading assessment in grades 1-3:

(a) ~~[T]~~ the LEA shall notify the ~~[student's]~~ teacher within 30 calendar days of student performance on the benchmark reading assessment~~[-]~~;

(b) ~~the~~ ~~[T]~~ teacher[s] must complete the ~~[v]~~ Vision ~~[s]~~ Symptom[s] ~~[q]~~ Questionnaire within 45 calendar days of the administration of the assessment and submit the questionnaire to the school nurse~~[-]~~;

(c) ~~the~~ ~~[T]~~ teacher[s] need only complete the ~~[v]~~ Vision ~~[s]~~ Symptom[s] ~~[q]~~ Questionnaire once per school year~~[-]~~; and

(d) ~~the~~ ~~[S]~~ school nurse[s] ~~[or other approved tier 2 vision screeners]~~ shall use the ~~[v]~~ Vision ~~[s]~~ Symptom[s] ~~[q]~~ Questionnaire to ~~[perform a]~~ evaluate the need for a tier 2 screening ~~[secondary assessment and]~~ or refer to an eye care professional within 30 calendar days of receiving the Vision Symptom Questionnaire.

(3) For a student[s] who ~~[are]~~ is being referred or reevaluated for ~~[to]~~ special education for a suspected disability affected by a vision ~~[difficulties]~~ difficulty:

(a) ~~the~~ ~~[T]~~ teacher[s] must complete the ~~[v]~~ Vision ~~[s]~~ Symptom[s] ~~[q]~~ Questionnaire and submit to the school nurse~~[-]~~; and

(b) ~~the~~ ~~[S]~~ school nurse[s] ~~[or other approved tier 2 vision screeners]~~ shall use the ~~[v]~~ Vision ~~[s]~~ Symptom[s] ~~[q]~~ Questionnaire to ~~[perform a]~~ evaluate the need for a tier 2 screening ~~[secondary assessment and]~~ or refer to an eye care professional within 30 calendar days of receiving the Vision Symptom Questionnaire.

(4) For a student[s] who ~~[are]~~ is being referred by parent or guardian for vision concern:

(a) ~~the~~ ~~[P]~~ parent or guardian should complete the ~~[v]~~ Vision ~~[s]~~ Symptom[s] ~~[q]~~ Questionnaire and submit to the school nurse~~[-]~~; and

(b) ~~the~~ ~~[S]~~ school nurse[s] ~~[or other approved tier 2 vision screeners]~~ shall use the ~~[v]~~ Vision ~~[s]~~ Symptom[s] ~~[q]~~ Questionnaire to ~~[perform a]~~ evaluate the need for a tier 2 screening ~~[secondary assessment and]~~ or refer to an eye care professional within 30 calendar days of receiving the Vision Symptom Questionnaire.

R384-201-11. Aggregate Reporting Requirements.

(1) ~~[All]~~ LEAs shall report aggregate numbers annually to UDOH to include:

(a) ~~[T]~~ total number ~~[of students]~~ receiving tier 1 vision screening; ~~[and]~~

(b) ~~[T]~~ total number ~~[of students]~~ referred to an eye care professional following a tier 1 vision screening; ~~[and]~~

(c) ~~[T]~~ total number ~~[of students]~~ referred to school nurse for tier 2 screening; ~~[and]~~

(d) ~~[T]~~ total number ~~[of students]~~ referred to an eye care professional following a tier 2 vision screening; and

(e) ~~[O]~~ other information as requested by UDOH.

(2) This report may be submitted on the annual vision screening report, or as part of the annual school health workload census, and shall be due on or before June 30 of each year.

(3) No personally identifiable information will be collected.

KEY: eye exams, school vision, vision evaluations

Date of Enactment or Last Substantive Amendment: ~~[August 1, 2019]~~ 2020

Notice of Continuation: June 7, 2018

Authorizing, and Implemented or Interpreted Law: 53G-9-404

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R388-805	Filing No. 52750

Agency Information

1. Department:	Health	
Agency:	Disease Control and Prevention, HIV/AIDS, Tuberculosis Control/Refugee Health	
Room no.:	2nd Floor	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state:	Salt Lake City, UT 84116	
Mailing address:	PO Box 142102	
City, state, zip:	Salt Lake City, UT 84114-2102	
Contact person(s):		
Name:	Phone:	Email:
Tyler Fisher	801-538-6353	tfisher@utah.gov
Allison Allred	801-538-6311	aallred@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R388-805. Ryan White Part B Program
3. Purpose of the new rule or reason for the change:
This change modifies income requirement language to allow the Utah Ryan White Part B Program to be rapidly responsive to community need.
4. Summary of the new rule or change:
This change replaces Subsections R388-805-6(2) and (3) with a new (2) to receive services under the Ryan White Part B Program an individual must meet gross annual household income guidelines in accordance with the current Utah Ryan White Part B Program Manual which is incorporated by reference.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
Enacting the proposed changes to Section R388-805-6 will not result in a cost or saving to the state budget because the proposed rule changes do not require a change to current state operations or programs, and it does not include requirements for the payment of fines or fees.
B) Local governments:
Enacting the proposed changes to Section R388-805-6 will not result in a cost or saving to local governments because the proposed rule changes do not require a change to current local operations or programs, and it does not include requirements for the payment of fines or fees.
C) Small businesses ("small business" means a business employing 1-49 persons):
Enacting the proposed changes to Section R388-805-6 will not result in a cost or saving to small businesses because the proposed rule changes do not require a change to current small business operations or programs, and it does not include requirements for the payment of fines or fees.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
Enacting the proposed changes to Section R388-805-6 will not result in a cost or saving to non-small businesses because the proposed rule changes do not require a change to current non-small business operations or programs, and it does not include requirements for the payment of fines or fees.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

Enacting the proposed changes to Section R388-805-6 will not result in a cost or benefit to other persons because the proposed rule does not require a change to current operations or programs, and it does not include requirements for the payment of fines or fees.

F) Compliance costs for affected persons:

These revisions do not add additional requirements of time or financial resources for affected persons.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Health, Joseph Miner, MD, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

The rule amendment removes the specific eligibility income requirements of 250% and 500% of the federal poverty level and replaces it with income eligibility requirements in accordance with the Utah Ryan White Part B Manual.

There is no fiscal impact on businesses.

B) Name and title of department head commenting on the fiscal impacts:

Joseph K. Miner, MD, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 26-1-5	Subection 26-1-30(4)	
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Incorporations by Reference Information

8. A) This rule adds, updates, or removes the following title of materials incorporated by references:

	First Incorporation
Official Title of Materials Incorporated (from title page)	Utah Ryan White Part B Program Manual
Publisher	Utah Department of Health
Date Issued	04/01/2020

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/01/2020

10. This rule change MAY become effective on: 07/08/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	05/02/2020
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R388. Health, Disease Control and Prevention; HIV/AIDS, Tuberculosis Control/Refugee Health.

R388-805. Ryan White Part B Program.

R388-805-1. Authority and Purpose.

This rule governs program eligibility, benefits, and administration by the Department for the Ryan White HIV/AIDS Treatment Extension Act of 2009 Part B Program (Ryan White Part B Program). It is authorized by Section 26-1-5; Section 26-1-15; Section 26-1-18; and Section 26-1-30(2)(a), 26-1-30(2)(b), 26-1-30(2)(c), and 26-1-30(2)(g).

R388-805-2. Definitions.

The following definitions apply to this rule:

- (1) "HIV" means Human Immunodeficiency Virus.
- (2) "Department" means the Utah Department of Health.
- (3) "Client" means an individual who meets the eligibility criteria and is enrolled in the Ryan White Part B Program pursuant to the provisions of this rule.

R388-805-3. Nature of Program and Benefits.

(1) The Ryan White Part B Program provides reimbursement to providers for services rendered to HIV positive individuals who meet the eligibility requirements. The Ryan White Part B Program provides limited services as described in this rule. The Department provides reimbursement coverage under the program only for services for each program:

- (a) as provided in law governing the Ryan White HIV/AIDS Treatment Extension Act of 2009;
 - (b) to the extent that it has agreed to reimburse providers with whom it contracts to provide services; and
 - (c) as limited in its agreements or contracts with providers.
- (2) Within available funding, the Department provides Core Medical and Supportive Services as allowable under the legislation;
- (a) The AIDS Drug Assistance Program (ADAP) provides HIV related medications, health insurance premium, and cost-sharing assistance.

(b) Supportive Services Program provides a variety of supportive services that enable the client to access medical care as well as to retain the client in medical care.

(3) The Department may adjust the services available to meet current needs and fluctuations in available funding.

(4) The Ryan White Part B Program is not health insurance. A relationship with the Department as the insurer and the client as the insured is not created under this program.

R388-805-4. Providers.

The Department reimburses only providers who contract with the Department to provide services under the program.

R388-805-5. Reimbursement.

(1) The Department shall reimburse only for services as limited in its agreements or contracts with providers.

(2) The Department shall reimburse providers according to the fee schedule or budgets that are made part of its agreements or contracts with providers.

(3) The Ryan White Part B Program is the payer of last resort. The Department does not pay for services under the Ryan White Part B Program for which an individual is eligible to receive under any other primary payer source.

R388-805-6. Ryan White Part B Program Eligibility.

(1) To receive services under the Ryan White Part B Program, an individual must physically reside in Utah, and must have a medical diagnosis of HIV infection as verified by the individual's physician.

(2) To receive services under the Ryan White Part B Program, an individual must meet gross annual household income guidelines in accordance with the April 2020 Utah Ryan White Part B Manual which is incorporated by reference.

~~[(2) To receive Core Medical and Supportive Services, excluding Case Management services, an individual must not have gross annual household income exceeding 250% of the federal poverty level.]~~

~~[(3) To receive Case Management services, an individual must not have gross annual household income exceeding 500% of the federal poverty level.]~~

~~[(4)](3) To be eligible to receive assistance from the AIDS Drug Assistance Program, including health insurance premium and cost-sharing assistance an individual must have a prescription for the medication requested.~~

~~[(5)](4) Clients must re-certify semi-annually in order to continue program participation.~~

KEY: treatment and care, HIV/AIDS, ADAP, Ryan White Part B Program

Date of Enactment or Last Substantive Amendment: ~~April 23,~~ 2020

Notice of Continuation: September 30, 2016

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-1-15; 26-1-18; 26-1-30(2)(a); 26-1-30(2)(b); 26-1-30(2)(c); 26-1-30(2)(g)

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R438-15	Filing No.	52786

Agency Information

1. Department:	Health
Agency:	Disease Control and Prevention, Laboratory Services
Building:	Utah Public Health Laboratory
Street address:	4431 S Constitution Blvd
City, state:	Taylorsville, UT 84129

Contact person(s):		
Name:	Phone:	Email:
Kim Hart	801-965-2495	kimhart@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R438-15. Newborn Screening
3. Purpose of the new rule or reason for the change:
X-Linked Adrenoleukodystrophy (XALD) is added to the list of screened disorders per recommendation of the Newborn Screening Advisory Committee. Additionally, the term disability and mental retardation will be removed and replaced with developmental delay, which is terminology used by the Individuals with Disabilities Education Act (IDEA).
4. Summary of the new rule or change:
This rule change will add XALD to Utah's Newborn Screening Panel per recommendation of the Newborn Screening Advisory Committee under R438-15-4. Additionally, in Section R438-15-1 the term disability and mental retardation will be removed and replaced with developmental delay, which is terminology used by the Individuals with Disabilities Education Act (IDEA).

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
XALD has an estimated population frequency of 2 to 3 cases per 50,000 births. Presymptomatic identification of individuals affected by XALD is possible through Newborn Screening (NBS). Treatment of individuals affected by XALD before the onset of symptoms will result in savings of \$350,000 to \$2,000,000 per case. The estimated cost of screening for XALD for each newborn is \$2.93. Based on 2015 Medicaid data indicating 31% of Utah births are Medicaid eligible and an assumption of cost coverage requirements by Medicaid for Medicaid eligible patients, would result in 15,233 babies or a total impact of \$44,633 annually. The seriousness of XALD is demonstrated by the fact that once symptoms manifest disease progression is irreversible ultimately leading to death around 4 to 8 years of age.
B) Local governments:
Since the fee for Newborn Screening is covered directly through the NBS kit fee, which is paid through health insurance, there is no anticipated financial impact on local governments.

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C) Small businesses ("small business" means a business employing 1-49 persons):

The Department of Health does not have sufficient data to estimate the cost to small businesses. Additional cost of XALD screening is passed on to Medicaid and third-party payers.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

The additional costs to third party payers are \$104,141 based on 2015 non-Medicaid deliveries. This is calculated as \$2.93 x 35,543 births. Costs are offset through reduced disease management components.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no anticipated financial impact on Persons other than small businesses, non-small businesses, state, or local government entities.

F) Compliance costs for affected persons:

The compliance cost will be \$2.93 per newborn screened. The Department does not have sufficient data to estimate the cost to any particular third party payer who pays for the screening.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$44,633	\$44,633	\$44,633
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$104,141	\$104,141	\$104,141
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$148,774	\$148,774	\$148,774
Fiscal Benefits			
State Government	\$350,000+	\$350,000+	\$350,000+
Local Governments	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$350,000+	\$350,000+	\$350,000+
Net Fiscal Benefits	\$201,226+	\$201,226+	\$201,226+

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Health, Joseph K. Miner, MD, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

The additional cost to third party payers is \$104,141 based on 2015 non-Medicaid deliveries. This is calculated as \$2.93 x 35,543 births.

B) Name and title of department head commenting on the fiscal impacts:

Joseph K. Miner, MD, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 26-10-6	Section 26-1-30	
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/01/2020

10. This rule change MAY become effective on: 07/08/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a

Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	05/15/2020
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R438. Health, Disease Control and Prevention, Laboratory Services.

R438-15. Newborn Screening.

R438-15-1. Purpose and Authority.

(1) The purpose of this rule is to facilitate early detection, prompt referral, early treatment, and prevention of developmental delays~~[disability and mental retardation]~~ in infants with certain genetic and endocrine disorders.

(2) Authority for the Newborn Screening program and promulgation of rules to implement the program are found in Sections 26-1-6, 26-1-30 and 26-10-6.

R438-15-2. Definitions.

(1) "Abnormal test result" means a result that is outside of the normal range for a given test.

(2) "Appropriate specimen" means a blood specimen submitted on the Utah Newborn Screening form that conforms with the criteria in R438-15-9.

(3) "Blood spot" means a clinical specimen(s) submitted on the filter paper (specially manufactured absorbent specimen collection paper) of the Newborn Screening form using the heel stick method.

(4) "Department" means the Utah Department of Health.

(5) "Follow up" means the tracking of all newborns with an abnormal result, inadequate or unsatisfactory specimen or a quantity not sufficient specimen through to a normal result or confirmed diagnosis and referral.

(6) "Inadequate specimen" means a specimen determined by the Newborn Screening Laboratory to be unacceptable for testing.

(7) "Indeterminate result" means a result that requires another specimen to determine normal or abnormal status.

(8) "Institution" means a hospital, alternate birthing facility, or midwife service in Utah that provides maternity or nursery services or both.

(9) "Medical home/practitioner" means a person licensed by the Department of Commerce, Division of Occupational and Professional Licensing to practice medicine, naturopathy, or chiropractic or to be a nurse practitioner, as well as the licensed or unlicensed midwife who takes responsibility for delivery or the on-going health care of a newborn.

(10) "Metabolic diseases" means those diseases screened by the Department which are caused by an inborn error of metabolism.

(11) "Newborn Screening form" means the Department's demographic form with attached Food and Drug Administration (FDA)-approved filter paper medical collection device.

(12) "Quantity not sufficient specimen" or "QNS specimen" means a specimen that has been partially tested but does not have enough blood available to complete the full testing.

(13) "Unsatisfactory specimen" means an inadequate specimen.

R438-15-3. Newborn Screening Advisory Committee.

(1) Newborn Screening Advisory Committee shall be composed of at least 9 members as follows:

(a) an individual with an advanced degree (MS/PhD/MD) in genetics or other relevant field, who will serve as Chair;

(b) a representative from the Utah Hospital Association;

(c) a community pediatrician;

(d) the Director of the Division of Disease Control and Prevention;

(e) an advocate or a consumer of a newborn screening services;

(f) clinical consultants for the Newborn Screening program;

(g) a representative from the Utah Public Health Laboratory

(h) a representative from the Newborn Screening Follow-up

Program;

(i) a representative from the research community with knowledge about disorders considered for future addition to the newborn screening panel.

(2) The Department Executive Director shall approve committee membership with counsel from the advisory committee.

(3) The term of committee members shall be four years;

(a) members may serve up to three additional terms as requested;

(b) if a vacancy occurs in the committee membership for any reason, a replacement shall be appointed for the unexpired term in the same manner as the original appointment;

(c) a majority of the committee constitutes a quorum at any meeting. If a quorum is present, the action of the majority of members shall be the action of the advisory committee.

(4) The committee shall:

(a) advise the Department on policy issues related to newborn screening services;

(b) provide guidance to programs and functions within the Department having to do with newborn screening services and

(c) evaluate potential tests that could be added to newborn or population screening and make recommendations to the Department.

R438-15-4. Implementation.

(1) Each newborn in the state of Utah shall submit to the Newborn Screening testing, except as provided in Section R438-15-12.

(2) The Department of Health, after consulting with the Newborn Screening Advisory Committee, will determine the disorders on the Newborn Screening Panel, based on demonstrated effectiveness and available funding. Disorders for which the infant blood is screened are:

(a) Biotinidase Deficiency;

(b) Congenital Adrenal Hyperplasia;

(c) Congenital Hypothyroidism;

(d) Galactosemia;

(e) Hemoglobinopathy;

(f) Amino Acid Metabolism Disorders:

(i) Phenylketonuria (phenylalanine hydroxylase deficiency and variants);

(ii) Tyrosinemia type 1 (fumarylacetoacetate hydrolase deficiency);

(iii) Tyrosinemia type 2 (tyrosine amino transferase deficiency);

(iv) Tyrosinemia type 3 (4-OH-phenylpyruvate dioxygenase deficiency);

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(v) Maple Syrup Urine Disease (branched chain ketoacid dehydrogenase deficiency);

(vi) Homocystinuria (cystathionine beta synthase deficiency);

(vii) Citrullinemia (arginino succinic acid synthase deficiency);

(viii) Argininosuccinic aciduria (argininosuccinic acid lyase deficiency);

(ix) Argininemia (arginase deficiency);

(x) Hyperprolinemia type 2 (pyroline-5-carboxylate dehydrogenase deficiency);

(g) Fatty Acid Oxidation Disorders:

(i) Medium Chain Acyl CoA Dehydrogenase Deficiency;

(ii) Very Long Chain Acyl CoA Dehydrogenase Deficiency;

(iii) Short Chain Acyl CoA Dehydrogenase Deficiency;

(iv) Long Chain 3-OH Acyl CoA Dehydrogenase Deficiency;

(v) Short Chain 3-OH Acyl CoA Dehydrogenase Deficiency;

(vi) Primary carnitine deficiency (OCTN2 carnitine

transporter defect);

(vii) Carnitine Palmitoyl Transferase I Deficiency;

(viii) Carnitine Palmitoyl Transferase 2 Deficiency;

(ix) Carnitine Acylcarnitine Translocase Deficiency;

(x) Multiple Acyl CoA Dehydrogenase Deficiency;

(h) Organic Acids Disorders:

(i) Propionic Acidemia (propionyl CoA carboxylase deficiency);

(ii) Methylmalonic acidemia (multiple enzymes);

(iii) Malonic Aciduria;

(iv) Isovaleric acidemia (isovaleryl CoA dehydrogenase deficiency);

(v) 2-Methylbutyryl CoA dehydrogenase deficiency;

(vi) Isobutyryl CoA dehydrogenase deficiency;

(vii) 2-Methyl-3-OH-butyryl-CoA dehydrogenase deficiency;

(viii) Glutaric acidemia type 1 (glutaryl CoA dehydrogenase deficiency);

(ix) 3-Methylcrotonyl CoA carboxylase deficiency;

(x) 3-Ketothiolase deficiency;

(xi) 3-Hydroxy-3-methyl glutaryl CoA lyase deficiency;

(xii) Holocarboxylase synthase (multiple carboxylases)

deficiency;

(i) Cystic Fibrosis;

(j) Severe Combined Immunodeficiency syndrome; and

(k) Disorders of Creatine Metabolism and

(l) Spinal Muscular Atrophy

(m) X-Linked Adrenoleukodystrophy

R438-15-5. Responsibility for Collection of the First Specimen.

(1) If the newborn is born in an institution, the institution must collect and submit an appropriate specimen, unless the newborn is transferred to another institution prior to 48 hours of age.

(2) If the newborn is born outside of an institution, the practitioner or other person primarily responsible for providing assistance to the mother at the birth must arrange for the collection and submission of an appropriate specimen.

(3) If there is no other person in attendance of the birth, the parent or legal guardian must arrange for the collection and submission of an appropriate specimen.

(4) If the newborn is transferred to another institution prior to 48 hours of age, the receiving health institution must collect and submit an appropriate specimen.

R438-15-6. Timing of Collection of First Specimen.

The first specimen shall be collected between 24 and 48 hours of the newborn's life. Except:

(1) If the newborn is discharged from an institution before 48 hours of age, an appropriate specimen must be collected within four hours of discharge.

(2) If the newborn is to receive a blood transfusion or dialysis, the appropriate specimen must be collected immediately before the procedure, except in emergency situations where time does not allow for collection of the specimen. If the newborn receives a blood transfusion or dialysis prior to collecting the appropriate specimen the following must be done:

(a) Repeat the collection and submission of an appropriate specimen 7-10 days after last transfusion or dialysis for a second screening specimen;

(b) Repeat the collection and submission of an appropriate specimen 120 days after last transfusion or dialysis for a first screening specimen.

R438-15-7. Parent Education.

The person who has responsibility under Section R438-15-5 shall inform the parent or legal guardian of the required collection and submission and the disorders screened. That person shall give the second half of the Newborn Screening form to the parent or legal guardian with instructions on how to arrange for collection and submission of the second specimen.

R438-15-8. Timing of Collection of the Second Specimen.

A second specimen shall be collected between 7 and 16 days of age.

(1) The parent or legal guardian shall arrange for the collection and submission of the appropriate second specimen through an institution, medical home/practitioner, or local health department.

(2) If the newborn's first specimen was obtained prior to 24 hours of age, the second specimen shall be collected by fourteen days of age.

(3) If the newborn is hospitalized beyond the seventh day of life, the institution shall arrange for the collection and submission of the appropriate second specimen.

R438-15-9. Criteria for Appropriate Specimen.

(1) The institution or medical home/practitioner collecting the appropriate specimen must:

(a) Use only a Newborn Screening form purchased from the Department. The fee for the Newborn Screening form is set by the Legislature in accordance with Section 26-1-6;

(b) Correctly store the Newborn Screening form;

(c) Not use the Newborn Screening form beyond the date of expiration;

(d) Not alter the Newborn Screening form in any way;

(e) Complete all information on the Newborn Screening form. If the infant is being adopted, the following may be omitted: infant's last name, birth mother's name, address, and telephone number. Infant must have an identifying name, and a contact person must be listed;

(f) Apply sufficient blood to the filter paper;

(g) Not contaminate the filter paper with any foreign substance;

(h) Not tear, perforate, scratch, or wrinkle the filter paper;

(i) Apply blood evenly to one side of the filter paper and be sure it soaks through to the other side;

(j) Apply blood to the filter paper in a manner that does not cause caking;

(k) Collect the blood in such a way as to not cause serum or tissue fluids to separate from the blood;

(l) Dry the specimen properly;

(m) Not remove the filter paper from the Newborn Screening form.

(2) Submit the completed Newborn Screening form to the Utah Department of Health, Newborn Screening Laboratory, 4431 South 2700 West, Taylorsville, Utah 84119.

(a) The Newborn Screening form shall be placed in an envelope large enough to accommodate it without folding the form.

(b) If mailed, the Newborn Screening form shall be placed in the U.S. Postal system within 24 hours of the time the appropriate specimen was collected.

(c) If hand-delivered, the Newborn Screening form shall be delivered within 48 hours of the time the appropriate specimen was collected.

R438-15-10. Abnormal Result.

(1)(a) If the Department finds an abnormal result consistent with a disease state, the Department shall send written notice to the medical home/practitioner noted on the Newborn Screening form.

(b) If the Department finds an indeterminate result on the first screening, the Department shall determine whether to send a notice to the medical home/practitioner based on the results on the second screening specimen.

(2) The Department may require the medical home/practitioner to collect and submit additional specimens for screening or confirmatory testing. The Department shall pay for the initial confirmatory testing on the newborn requested by the Department. The Department may recommend additional diagnostic testing to the medical home/practitioner. The cost of additional testing recommended by the Department is not covered by the Department.

(3) The medical home/practitioner shall collect and submit specimens within the time frame and in the manner instructed by the Department.

(4) As instructed by the Department or the medical home/practitioner, the parent or legal guardian of a newborn identified with an abnormal test result shall promptly take the newborn to the Department or medical home/practitioner to have an appropriate specimen collected.

(5) The medical home/practitioner who makes the final diagnosis shall complete a diagnostic form and return it to the Department within 30 days of the notification letter from the Department.

R438-15-11. Inadequate or Unsatisfactory Specimen, or QNS Specimen.

If the Department finds an inadequate or unsatisfactory specimen, or QNS specimen, the Department shall inform the institution or medical home/practitioner noted on the Newborn Screening form.

(1) The institution or medical home/practitioner that submitted the inadequate or unsatisfactory, or QNS specimen shall submit an appropriate specimen in accordance with Section R438-15-9. The responsible institution or medical home/practitioner shall collect and submit the new specimen within two days of notice, and the responsible institution or medical home/practitioner shall label the form for testing as directed by the Department.

(2) The parent or legal guardian of a newborn identified with an inadequate or unsatisfactory specimen or QNS specimen shall

promptly take the newborn to the institution or medical home/practitioner to have an appropriate specimen collected.

R438-15-12. Testing Refusal.

A parent or legal guardian may refuse to allow the required testing for religious reasons only. The medical home/practitioner or institution shall file in the newborn's record documentation of refusal, reason, education of family about the disorders, and a signed waiver by both parents or legal guardian. The practitioner or institution shall submit a copy of the refusal to the Utah Department of Health, Newborn Screening Program, P.O. Box 144710, Salt Lake City, UT 84114-4710.

R438-15-13. Access to Medical Records.

(1) The Department shall have access to the medical records of a newborn in order to identify medical home/practitioner, reason appropriate specimen was not collected, or to collect missing demographic information.

(2) The institution shall enter the Newborn Screening form number, also known as the Birth Record Number, into the Vital Records database and the Newborn Hearing Screening database.

R438-15-14. Noncompliance by Parent or Legal Guardian.

If the medical home/practitioner or institution has information that leads it to believe that the parent or legal guardian is not complying with this rule, the medical home/practitioner or institution shall report such noncompliance as medical neglect to the Department.

R438-15-15. Confidentiality and Related Information.

(1) The Department initially releases test results to the institution of birth for first specimens and to the medical home/practitioner, as noted on the Newborn Screening form, for the second specimen.

(2) The Department notifies the medical home/practitioner noted on the Newborn Screening form as provided in Section R438-15-10(1) of any results that require follow up.

(3) The Department releases information to a medical home/practitioner or other health practitioner on a need to know basis. Release may be orally, by a hard copy of results or available electronically by authorized access.

(4) Upon request of the parent or guardian, the Department may release results as directed in the release.

(5) All requests for test results or records are governed by Utah Code Title 26, Chapter 3.

(6) The Department may release information in summary, statistical, or other forms that do not identify particular individuals.

(7) A testing laboratory that analyzes newborn screening samples for the Department may not release information or samples without the Department's express written direction.

R438-15-16. Blood Spots.

(1) Blood spots become the property of the Department.

(2) The Department includes in parent education materials information about the Department's policy on the retention and use of residual newborn blood spots.

(3) The Department may use residual blood spots for newborn screening quality assessment activities.

(4) The Department may release blood spots for research upon the following:

(a) The person proposing to conduct the research applies in writing to the Department for approval to perform the research. The application shall include a written protocol for the proposed research, the person's professional qualifications to perform the proposed

NOTICES OF PROPOSED RULES

research, and other information if needed and requested by the Department. When appropriate, the proposal will then be submitted to the Department's Internal Review Board for approval.

(b) The Department shall de-identify blood spots it releases unless it obtains informed consent of a parent or guardian to release identifiable samples.

(c) All research must be first approved by the Department's Internal Review Board.

R438-15-17. Retention of Blood Spots.

(1) The Department retains blood spots for a minimum of 90 days.

(2) Prior to disposal, the Department shall de-identify and autoclave the blood spots.

R438-15-18. Reporting of Disorders.

If a diagnosis is made for one of the disorders screened by the Department that was not identified by the Department, the medical home/practitioner shall report it to the Department.

R438-15-19. Statutory Penalties.

As required by Subsection 63G-3-201(5): Any medical home/practitioner or institution responsible for submission of a newborn screen that violates any provision of this rule may be assessed a civil money penalty as provided in Section 26-23-6.

KEY: health care, newborn screening

Date of Enactment or Last Substantive Amendment: ~~January 1, 2018~~ **2020**

Authorizing, and Implemented or Interpreted Law: 26-1-6; 26-1-30; 26-10-6

NOTICE OF PROPOSED RULE			
TYPE OF RULE: New			
Utah Admin. Code Ref (R no.):	R523-21	Filing No. 52768	

Agency Information

1. Department:	Human Services		
Agency:	Substance Abuse and Mental Health		
Room no.:	Second Floor		
Building:	Multi Agency State Office Building		
Street address:	195 N 1950 W.		
City, state:	Salt Lake City, UT		
Mailing address:	195 N 1950 W.		
City, state, zip:	Salt Lake City, UT 84116		
Contact person(s):			
Name:	Phone:	Email:	
Thom Dunford	801-538-4181	tdunford@utah.gov	
Jonah Shaw	801-538-4219	jshaw@utah.gov	

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
R523-21. Behavioral Health Receiving Centers Standards
3. Purpose of the new rule or reason for the change:
This proposed rule sets forth guidelines, procedures, and standards for the establishment of Behavioral Health Receiving Centers that are funded by the Division of Substance Abuse and Mental Health (DSAMH).
4. Summary of the new rule or change:
This rule requires Local Mental Health Authorities that use grant funds to establish a Behavioral Health Receiving Center to: <ol style="list-style-type: none"> 1. Accept all walk-ins and first responder drop-offs and provide an assessment; 2. Accept all walk-ins and first responder drop-offs without prior medical clearance, and work to achieve in-house medical stability; 3. Provide mental health and substance use disorder treatment; 4. Provide physical health care for minor issues, and provide for transfer to a higher level of care where indicated; 5. Provide year-round 24 hour staffing and services with a staff capable of providing psychiatry, nursing, psychotherapy and peer support; 6. Never reject a first responder referral; 7. Have capacity to provide 23 hour observation as specified; 8. Screen and assess for suicide and violence risk; and 9. Provide or refer for the full array of mental health and substance use levels of care.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
DSAMH does not anticipate any budget savings related to compliance with this rule, but there will be an administrative overhead cost withholding of 2% that is applied to the funds given to DSAMH as part of the budgetary allocation to pay for the behavioral health receiving centers created in this rule. The 2% administrative overhead cost withholding is a federal requirement under the state's agreement with Medicaid and is a usual and customary reduction in all Cost Allocation Plans (CAP). The withholding for year one is \$160,700, and the following years will be \$113,040. This is based on the \$8,035,000 in ongoing general funds, and \$5,652,000 one-time general funds allocated to DSAMH from the legislature. There is an estimable budgetary cost related to the one-time administrative process that DSAMH will need to engage in, for implementation of a Request For Proposal (RFP) for distributing funds to

counties. The costs incurred come from the following anticipated onetime activities:

1. DSAMH will create a medium sized group of 6 employees to create the RFP, consisting of 2 Program Administrator 3 (\$37.82 per hour), a Program Administrator 2 (\$35.05 per hour), a Program Manager (\$25.95 per hour), an Assistant Director (\$44.36 per hour), and an Administrative Services staff for budgeting (\$15.07 per hour). The RFP will take up to 20 hours to complete and be ready for issuance. The total salary cost per hour will be \$195.07 times the total number of hours 20 for an anticipated cost of \$3,921.40; and

2. A small committee of 3 employees will be convened to review, and award the funds tied to the RFPs consisting of a Program Administrator 3 (\$37.82 per hour), a Program Administrator 2 (\$35.05 per hour), and an Assistant Director (\$44.36 per hour) for a total hourly cost of \$117.23. DSAMH will take up to 10 hours to complete this task for a total cost of \$1,172.30.

This entire process is anticipated to incur a onetime cost to the state budget of \$3,921.40 + 1,172.30 = \$5,093.70. DSAMH will round up to \$5,094 as the total cost being reported for this rule, but this cost will be offset by the 2% CAP, and will not have an effect on DSAMH 's budget overall.

Each year thereafter, DSAMH will engage in an annual monitoring and review visit of each Behavioral Health Crisis Center to ensure fidelity to the model and the certification. It is estimated this activity will require the services of 1 Program Manager (\$26.01 per hour) a 1 Program Administrator 2 (\$36.05 per hour), and an Auditor 4 (\$29.75 per hour) for a total hourly cost of \$91.81. This activity should take no more than 40 hours to accomplish for a total of \$3,672.40 per year. DSAMH will report \$3,672 for this cost.

B) Local governments:

DSAMH does not anticipate a budget savings for local governments to comply with this rule. There will be a slight offset for cost from DSAMH to aid in the creation and maintenance of the crisis centers established in this rule. As was mentioned above, DSAMH has taken a 2% administrative overhead cut from this funding which leaves the counties with \$7,874,300 in ongoing general funds, and an additional \$5,538,960 in onetime general funds that will be passed on to assist in startup costs for the centers.

DSAMH is unable to estimate correctly the cost of compliance for all counties budgets at this time. One major mitigating factor is that the legislative intent for passing this statute was to increase access to inpatient behavioral health crisis services statewide. With this in mind, DSAMH plans to award funds to multiple counties, 2 at the least, and up to 4 at the most via an RFP. This is an issue because some of the offset funding will come from the pass through funds tied to the legislation prompting this

rule. DSAMH is unsure which counties will apply, or what each county's level of operational readiness is currently in place. Also, if 2 counties are awarded grant funds then each would hypothetically reactive 6,706,630 in state general funds for the first year, and \$3,937,150 in ongoing funds each succeeding year. If DSAMH awards 4 counties grant funds, each county would hypothetically receive \$3,353,315 in the first year and \$1,968,575 in ongoing funds each succeeding year. Overall, DSAMH has received reports from some counties, and they are estimating their centers will cost upwards to \$10,000,000 in finances, and in-kind donation for the first year. These financial and in-kind donation resources would come from county general funds, County Development Block Grant funds, and other private funds, and by establishing public and private partnerships, and putting land and other in-kind donations towards their projects.

Ongoing cost to maintain the receiving centers is also inestimable at this time. This funding will come from the yearly state general pass through funds identified above, and the amount committed to the project by the counties, which will be identified in their RFPs. DSAMH 's best estimate is somewhere between \$2,000,000 and \$5,000,000 per agency per year, depending on the size of the center, variable costs, and the cost of any contractual services being offered.

The table below will reflect the costs and benefits of two counties being awarded grants for this rule.

C) Small businesses ("small business" means a business employing 1-49 persons):

There are possible inestimable small business budget savings and costs. There is a requirement to provide a full array of services that more than likely will not be possible for some counties, unless the receiving centers contract with other agencies to provide those services that are outside of their capacity. The most likely contracted services will be psychiatry and nursing which most likely will come through a contact with a local health clinic described in NAIC 6211 code Office of Physicians services. The number of firms in this category is 2011. DSAMH does not know which Local Mental Health Authority will endeavor to create a Behavioral Health Receiving Center, or which doctor's office would be used, so all are being reported at this time. It is anticipated that a few small business agencies meeting this anticipated need could contract with the counties to provide said services, but it is not known how much funding will be offered, or if the contractual agreement will add costs or savings to the contracted small businesses' budget. Overall, the factors are too varied to provide an estimable cost or benefit to this group.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are possible inestimable non-small businesses' budget savings and costs. There is a requirement to provide a full array of services that more than likely will not

be possible for some counties, unless the receiving centers contract with other agencies to provide those services that are outside of their capacity. The most likely contracted services will be psychiatry and nursing which most likely will come through a contact with a local hospital described in NAIC 621110 code General Medical and Surgical Hospitals. The number of firms in this category is 94. DSAMH does not know which Local Mental Health Authority will endeavor to create a Behavioral Health Receiving Center, or which hospital would be used, so all are being reported at this time. It is anticipated that a few non-small businesses' agencies meeting this description could contract with the counties to provide said services, but it is not known how much funding will be offered, or if the contractual agreement will add costs or savings to the contracted non-small businesses' budget.

Also, conventional wisdom tells us that for every 8 receiving center chairs occupied by an individual, there are 3,000 people per year diverted from an emergency department. The low end of an emergency department visit is a cost savings of \$1,000/person that is diverted. DSAMH also knows that about 30% of the people going to the receiving center will need to be sent to a higher level of care. At the lowest level, DSAMH can assume there will be 2,100 diversions per 8 receiving center slots per year at a minimum savings of \$2,100,000 per year in emergency room costs. This savings is anticipated, and DSAMH is not able to estimate the number of receiving center slots that will be created. Overall, the factors are too varied to provide an estimable cost or benefit to this group.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There are possible inestimable savings and costs to persons other than small businesses, non-small businesses, state, or local government entities. There is a requirement to provide a full array of services that more than likely will not be possible for some counties, unless the receiving centers contract with other agencies to provide those services that are outside of their capacity. The most likely contracted services will be psychiatry and nursing which most likely will come through a contact with a local professional in the two categories of advanced practice registered nurses (APRN) prescriber and a physician. The Division of Occupational and Professional Licensing currently reports that there are 322 active APRN prescriber licensed individuals and 10,816 physicians in the state. DSAMH is not going to report these numbers as actual data, because there is no way to identify the APRNs that have the background in psychiatry to meet this requirement and the count of physicians include surgeons and other specialties that would not be likely candidate for a contract of this nature. It is anticipated that a few in this class of agencies meeting this description could contract with the counties to provide said services, but it is not known how much funding will be offered, or if the

contractual agreement will add costs or savings to the contracted agency's/entities' budgets. Overall, the factors are too varied to provide an estimable cost or benefit to this group.

F) Compliance costs for affected persons:

Persons receiving services through the receiving centers created in this rule will not be charged for receiving those services other than what would be normally considered a customary co-payment when receiving any other behavioral health service, based on their funding source. The number of individuals who would meet the requirements of accessing a Behavioral Health Crisis Center is inestimable currently, because this type of data is not accurately tracked by any entity statewide at this time. Overall, the factors are too varied to provide an estimable cost or benefit to this group.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$5,094	\$3,672	\$3,672
Local Governments	\$20,000,000	\$10,000,000	\$10,000,000
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$20,005,094	\$10,003,672	\$10,003,672
Fiscal Benefits			
State Government	\$160,700	\$113,040	\$113,040
Local Governments	\$13,413,260	\$7,874,300	\$7,874,300
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$13,573,960	\$7,987,340	\$7,987,340
Net Fiscal Benefits	-\$6,431,134	-\$2,016,332	-\$2,016,332

H) Department head approval of regulatory impact analysis:
The Executive Director of the Department of Human Services, Ann Williamson, has reviewed and approved this fiscal analysis.
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:
Businesses may be financially impacted by this rule through potential contracting opportunities. The Department of Human Service is unable to estimate those financial impacts at this time.
B) Name and title of department head commenting on the fiscal impacts:
Ann Williamson, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):
Section 62A-15-118

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)
A) Comments will be accepted until: 07/01/2020

10. This rule change MAY become effective on: 07/08/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title: Doug Thomas, Director	Date: 04/29/2020
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R523. Human Services, Substance Abuse and Mental Health.

R523-21. Behavioral Health Receiving Centers Standards.

R523-21-1. Authority.

(1) This rule establishes guidelines, procedures and standards for the establishment of Behavioral Health Receiving Centers as directed in Section 62A-15-118.

R523-21-2. Purpose.

(1) This rule is enacted for the purpose of promoting the availability of comprehensive behavioral health crisis services throughout the state, by:

(a) creating standards of certification, care and practice for behavioral health receiving centers;

(b) outlining the responsibilities of behavioral health receiving centers including interaction with the civil commitment and assisted outpatient court ordered system; and

(c) awarding grants as directed by Section 62A-15-118, by application through qualified Local Mental Health Authorities.

R523-21-3. Definitions.

(1) General Provision means the general provisions described in the Behavioral Health Crisis Response Systems Standards rule in Section R523-17-5, General Provisions.

R523-21-4. Minimum Guidelines and Standards of Care.

(1) A grantee shall ensure that funded receiving centers will adhere the following:

(a) Accept each referral, offer walk-in and first responder drop-offs options, and assess individuals who walk in or are dropped off for services.

(b) Prohibit any medical clearance requirements prior to admission.

(c) Assess and support individuals for medical stability while in the program.

(d) Design services to address mental health and substance use crisis issues.

(e) Employ staff at a capacity able to assess an individual's physical health needs, and deliver care for most minor physical health challenges with an identified path to transfer the individual to additional medically staffed services if needed.

(f) Staff the center at all times, 24 hours a day, 7 days a week, 365 days a year, with a multidisciplinary team capable of meeting the needs of individuals experiencing any level of behavioral health crisis in the community including:

(i) psychiatrists or psychiatric nurse practitioners, which may satisfy the a center's staffing requirement though the use of telehealth;

(ii) nurses;

(iii) licensed and credentialed clinicians capable of completing assessments; and

(iv) certified Peer Support Specialists with lived experience similar to the experience of the population served.

(g) Structure the center to accept each referral including any referral from a first responder.

(h) Provide recliners for up to 23 hours for assessment, observation, stabilization, crisis management and support.

(i) Screen for suicide risk, and complete comprehensive suicide risk assessments and planning when clinically indicated.

(j) Screen for violence risk, and complete more comprehensive violence risk assessments and planning when clinically indicated.

NOTICES OF PROPOSED RULES

(k) Provide or coordinate with the broad health and behavioral health treatment and recovery system in order to provide connection to appropriate levels of care including immediate placements into services such as detox units, social detox, withdrawal management, medication management, residential treatment, intensive treatment for mental illness, and referral to ongoing, long term, services, such as case management, counseling, medication management, medication assisted treatment, addiction services, housing and employment.

KEY: behavioral health receiving center standards, behavioral health crisis centers, crisis receiving centers, crisis centers
Date of Enactment or Last Substantive Amendment: 2020
Authorizing, and Implemented or Interpreted Law: 62A-15-118

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R623-6	Filing No. 52758

Agency Information

1. Department:	Lieutenant Governor	
Agency:	Elections	
Room no.:	220	
Building:	Utah State Capitol	
Street address:	350 N State Street	
City, state:	Salt Lake City, UT 84103	
Mailing address:	PO Box 142325	
City, state, zip:	Salt Lake City, UT 84114-2325	
Contact person(s):		
Name:	Phone:	Email:
Derek Branchley	801-538-1746	dbrenchley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R623-6. Verification of Requests to Withhold Voter Registration Information
3. Purpose of the new rule or reason for the change:
S.B. 83, passed in the 2020 General Session, essentially created three classifications of voter registrations and specified how that information may be released to the public:
1. Public registrations – the registration can be obtained by the public and all third parties.
2. Private registrations – the registration cannot be obtained by the public, but it can be obtained by political parties and candidates for public office. Any registered voter may classify their record as a private registration.

3. Withheld registrations – the registration cannot be obtained by any third party, including political parties and candidates.

S.B. 83 (2020) specifies that only certain individuals are eligible to classify their registration as "withheld" (refer to lines 664-674). These individuals include law enforcement officers, members of the armed forces, victims or potential victims of domestic or dating violence, public figures, and an individual protected by a protective order or protection order.

S.B. 83 (2020) also requires that some of these individuals provide verification of their eligibility (refer to lines 667-668). In lines 683-685, S.B. 83 (2020) instructs the director of elections within the Office of the Lieutenant Governor (Office) to make administrative rules establishing requirements for individuals to provide this verification.

4. Summary of the new rule or change:

This new administrative rule creates verification requirements for individuals who are eligible to withhold their voter registration information. This rule provides the lieutenant governor and county clerks with the ability to require additional documentation if 1) an individual does not provide verification, or 2) the lieutenant governor or county clerk reasonably believes that the individual is not eligible to withhold his or her voter registration information. (EDITOR'S NOTE: A corresponding 120-day emergency Rule R623-6 that is effective as of 05/15/2020 is under ID No. 52784 in this issue, June 1, 2020, of the Bulletin.)

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

The state budget is not regulated or affected by this rule.

B) Local governments:

Local governments are not regulated or affected by this rule.

C) Small businesses ("small business" means a business employing 1-49 persons):

Small businesses are not regulated or affected by this rule.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

Non-small businesses are not regulated or affected by this rule.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an *agency*):

Affected individuals are registered voters who are eligible to withhold their voter registration information. This includes the following individuals:

1. Law enforcement officers;
2. Members of the armed forces;
3. Individuals protected by a protection or protective order;
4. Public figures;
5. Individuals who are or may be victims of domestic or dating violence;
6. Individuals who reside with the individuals listed above.

Although these individuals are affected by this rule, the rule does not pose a fiscal impact for them.

F) Compliance costs for affected persons:

Affected individuals may request to withhold their voter registration information by submitting a paper form (or a fillable PDF) and verification of their eligibility. The verification required by the administrative rule is a written statement that explains why the individual is eligible to withhold their voter registration information. If the lieutenant governor or county clerk reasonably believes that the individual is not eligible, the lieutenant governor or county clerk may require the individual to provide additional documentation for eligibility. The administrative rule outlines acceptable types of this documentation.

The Office estimates that compliance will not impose a fiscal impact on individuals, but it will take approximately 5 to 10 minutes for an individual to complete the form and submit it to the lieutenant governor and county clerk. The individual may have an additional compliance burden if the lieutenant governor or county clerk requires additional documentation. This may require an individual to gather and submit a copy of the documentation (e.g., scanning and sending an employee ID card).

The Office does not anticipate that compliance will result in a fiscal impact for individuals.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0

Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Director of the Elections Office, Justin Lee, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

Businesses are not regulated or affected by this rule

B) Name and title of department head commenting on the fiscal impacts:

Justin Lee, Director of Elections

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 20A-2-104		
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/01/2020

10. This rule change MAY become effective on:	07/08/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

Agency Authorization Information

Agency head or designee, and title:	Justin Lee, Director	Date:	05/12/2020
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R623. Lieutenant Governor, Elections.
R623-6. Verification of Requests to Withhold Voter Registration Information.

R623-6-1. Purpose and Authority.
 (1) This administrative rule establishes verification requirements for individuals who submit a request to withhold the individual's voter registration information to the lieutenant governor or the county clerk.
 (2) This administrative rule is authorized by Section 20A-2-104.

R623-6-2. Verification Requirements for Requests to Withhold Voter Registration Information.

(1) An individual who submits a request to withhold voter registration information must provide verification described in subsection (2) if the individual indicates on the request that the individual is, or resides with an individual who is:
 (a) A law enforcement officer;
 (b) A member of the armed forces, as defined in Section 20A-1-513;
 (c) A public figure, as defined in Section 20A-1-102; or
 (d) protected by a protective order or protection order.
 (2) An individual shall provide verification by submitting a written statement with the request that explains why the individual is eligible to withhold voter information.
 (3) If an individual does not submit the verification required by subsection (2) or the lieutenant governor or county clerk reasonably believes that the individual is not an eligible individual listed in subsection (1), the lieutenant governor or county clerk may require the individual to submit additional documentation to verify eligibility.
 (a) For an individual who indicates that the individual is a law enforcement officer, additional documentation may include:
 (i) employee identification card;
 (ii) copy of the individual's Peace Officer Standards and Training Certification;
 (iii) law enforcement badge if it includes identifying information;
 (iv) letter from the individual's employer verifying the individual's position as a law enforcement officer; or
 (v) other documents, at the lieutenant governor's or county clerk's discretion, that verify the individual's position as a law enforcement officer.
 (b) For an individual who indicates that the individual is a member of the armed forces, additional documentation may include:

(i) military identification card;
 (ii) copy of military orders;
 (iii) letter from the individual's employer verifying the individual's membership in the armed forces; or
 (iv) other documents, at the lieutenant governor's or county clerk's discretion, that verify the individual's membership in the armed forces.
 (c) For an individual who indicates that the individual is a public figure, additional documentation may include:
 (i) documents that indicate the individual is being considered for, currently holding, or held a position of prominence in a public or private capacity or holds celebrity status;
 (ii) documents or information that indicate the individual has an increased risk of safety due to their position or status; or
 (iii) other documents, at the lieutenant governor's or county clerk's discretion, that verify the individual is a public figure as defined in Section 20A-1-102.
 (d) For an individual who indicates that the individual is protected by a protective order or protection order, additional documentation may include:
 (i) a copy of the protective or protection order; or
 (ii) other documents, at the lieutenant governor's or county clerk's discretion, that verify the individual is protected by a protective order or protection order.
 (e) For an individual who resides with an individual described in subsections (3)(a), (3)(b), (3)(c), or (3)(d), additional documentation may include documents, at the lieutenant governor's or county clerk's discretion, that indicate that the individual lives with the individual described in subsections (3)(a), (3)(b), (3)(c), or (3)(d).

KEY: voter registration, record classification, privacy
Date of Enactment or Last Substantive Amendment: 2020
Authorizing, and Implemented or Interpreted Law: 20A-2-104

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R746-8-301	Filing No. 52732

Agency Information

1. Department:	Public Service Commission	
Agency:	Administration	
Building:	Heber M. Wells Building	
Street address:	160 E 300 S, 4th Floor	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 4558	
City, state, zip:	Salt Lake City, UT 84114-4558	
Contact person(s):		
Name:	Phone:	Email:
Yvonne Hogle	801-530-6709	yhogle@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R746-8-301. Calculation and Application of UUSF Surcharge
3. Purpose of the new rule or reason for the change:
The purpose of this rule amendment is to decrease the monthly Utah Universal Public Telecommunications Service Support Fund (UUSF) remittal amount from \$0.60 to \$0.54 per access line to ensure the UUSF fund remains at a manageable level and is not overinflated.
4. Summary of the new rule or change:
This amendment decreases the monthly UUSF surcharge from \$0.60 to \$0.54 per access line. The amendment makes only three textual edits, revising the rule's three references to the \$0.60 surcharge to reflect the new \$0.54 surcharge. As explained in response to Item 3, the decrease in the surcharge is necessary to ensure the UUSF fund remains within policy norms. The Public Service Commission (PSC) anticipates making this rule amendment effective on July 8, 2020.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
Not affected except to the extent state agencies are billed for access lines and will see a reduced surcharge, or savings, as compared to the current rate. The PSC and the Division of Public Utilities have been administering the UUSF for many years and have the budget to continue doing so. The reduction in the surcharge amount will not have a fiscal impact on the state budget.
B) Local governments:
Not affected except to the extent local governments are billed for access lines and will pay a reduced surcharge, or savings, as compared to the current rate. Local governments are not required to comply with or enforce the rules through which the UUSF is funded. No fiscal impact to local governments is anticipated.
C) Small businesses ("small business" means a business employing 1-49 persons):
Affected--Small businesses that provide access lines will be required to make minor adjustments to their billing in order to collect a lower surcharge. However, such adjustments should be nominal insofar as such small businesses are presently collecting the monthly surcharge. That is, the mechanisms for collecting the surcharge should already be in place and this amendment should only require a simple adjustment to the amount the mechanism collects. This change will not impose a fiscal burden on such businesses. In addition, small businesses that are billed for access lines will, like other customers,

be subject to the lower surcharge as explained in greater detail under other persons.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

Affected--Non-small businesses that provide access lines will be required to make minor adjustments to their billing in order to collect a lower surcharge. However, such adjustments should be nominal insofar as such businesses are presently collecting the monthly surcharge. That is, the mechanisms for collecting the surcharge should already be in place and this amendment should only require a simple adjustment to the amount the mechanism collects. This change will not impose a fiscal burden on non-small businesses. In addition, non-small businesses that are billed for access lines will, like other customers, be subject to the lower surcharge as explained in greater detail under other persons.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an *agency*):

Affected--All customers who are billed for an access line presently pay \$0.60 per month per access line for the UUSF surcharge. Under the new \$0.54 rate, all such customers will pay \$0.06 less per month per access line. Presently, an average of 2,748,554.87 access lines are assessed the surcharge every month. At the current rate, this results in approximately \$1,649,132.92 being collected from such customers to fund the UUSF on a monthly basis. Under the new rate, these customers will cumulatively pay approximately \$1,484,219.63 per month, generating approximately \$17,810,635.56 per year and \$1,484,219.63 per month as compared to the current rate to fund the UUSF. While the proposed reduction in the rate will result in a reduction of \$164,913.29 per month, or \$1,978,959.48 per year in the balance of the UUSF, as compared to the current rate to fund the UUSF, this has no fiscal impact on any group. No group will experience a fiscal "benefit" or "savings" because the funds collected or funds saved are specifically earmarked for UUSF spending. The PSC presently does not have access to the commercially sensitive information that would be necessary to determine what portion of the access lines paying the surcharge are small businesses, larger businesses, or individuals. However, this decrease should affect all customers and customer classes equally on a per access line basis.

F) Compliance costs for affected persons:

To comply, affected persons must decrease the amount they presently collect from their customers for the UUSF surcharge. The associated benefits will vary and cannot be precisely anticipated, but the PSC expects they will be nominal because affected persons should already have mechanisms in place to collect the monthly surcharge on an access line basis. In addition, as discussed under other

persons above, all customers will incur a benefit savings of \$0.06 per month per access line to which they subscribe.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$1,978,959.48*	\$0	\$0
Total Fiscal Benefits	\$1,978,959.48*	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

*While the proposed reduction in the rate will result in a reduction of \$164,913.29 per month, or \$1,978,959.48 per year, as compared to the current rate to fund the UUSF, this has no real impact to the "Other Persons" group in this Table. No "benefit" or "savings" will be experienced because the funds collected or funds saved are specifically earmarked for the UUSF.

H) Department head approval of regulatory impact analysis:

PSC Chair Thad LeVar has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

All telecommunications customers in Utah will experience a \$0.06 reduction in their monthly telecommunications bill. This will better align the Utah Universal Service Fund with the performance goal of maintaining a sufficient balance in the fund to pay three months' worth of disbursements, without accruing an unnecessary balance above that threshold.

B) Name and title of department head commenting on the fiscal impacts:

Thad LeVar, PSC Chair

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 54-3-1	Section 54-4-1	Section 54-8b-15
Section 54-8b-10		

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/01/2020

10. This rule change MAY become effective on: 07/08/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Thad LeVar, PSC Chair	Date:	05/21/2020
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R746. Public Service Commission, Administration.
R746-8. Utah Universal Public Telecommunications Service Support Fund (UUSF).
R746-8-301. Calculation and Application of UUSF Surcharge.
 (1) The Utah Universal Public Telecommunications Service Support Fund (UUSF) shall be funded as follows:

(a) Unless Subsection R746-8-301(3) applies, providers shall remit to the Commission [~~\$0.60~~]\$0.54 per month per access line that, as of the last calendar day of each month, has a place of primary use in Utah in accordance with the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

(b)(i) "Place of primary use" means the street address representative of where the customer's use of the telecommunications service primarily occurs.

(ii) A provider of mobile telecommunications service shall consider the customer's place of primary use to be the customer's residential street address or primary business street address.

(iii) A provider of non-mobile telecommunications service shall consider the customer's place of primary use to be:

(A) the customer's residential street address or primary business street address; or

(B) the customer's registered location for 911 purposes.

(c) A provider may collect the surcharge:

(i) as an explicit charge to each end-user; or

(ii) through inclusion of the surcharge within the end-user's rate plan.

(d) A provider that offers a multi-line service shall apply the surcharge to each concurrent real-time voice communication call session that an end-user can place to or receive from the public switched telephone network.

(e)(i) A provider that offers prepaid access lines or connections that permit access to the public telephone network shall remit to the Commission [~~\$0.60~~]\$0.54 per month per access line for such service (new access lines or connections, or recharges for existing lines or connections) purchased on or after January 1, 2018.

(ii) Subsection R746-8-301(1)(e)(i) operates in lieu of Subsection R746-8-301(1)(a) in that a provider who is required to make a remittance for an access line under Subsection R746-8-301(1)(e)(i) is not required to make an additional remittance for the same access line under Subsection R746-8-301(1)(a).

(iii)(A) Multiple recharges of a single prepaid access line during a single month do not trigger multiple remittance requirements.

(B) [~~\$0.60~~]\$0.54 per month is both the maximum and minimum amount of remittance necessary for any single access line.

(2)(a) A provider shall remit to the Commission no less than 98.69 percent of its total monthly surcharge collections.

(b) A provider may retain a maximum of 1.31 percent of its total monthly surcharge collections to offset the costs of administering this rule.

(3)(a) Subject to Subsection R746-8-301(3)(b), a provider may omit the UUSF surcharge with respect to an access line that is described in Subsection R746-8-301(1), and:

(i) generates revenue that is subject to a universal service fund surcharge in a state other than Utah for the relevant month for which the provider omits the UUSF surcharge;

(ii) for the relevant month for which the provider omits the UUSF surcharge, was not used to access Utah intrastate telecommunications services; or

(iii) subject to Subsection R746-8-403(5), receives subsidization through a federal Lifeline program approved by the FCC.

(b) A provider that omits any UUSF surcharge pursuant to Subsection R746-8-301(3)(a) shall:

(i) maintain documentation for at least 36 months that the omission complied with Subsection R746-8-301(3)(a); and

(ii) consent to any audit of the documentation requested by the:

(A) Commission; or

(B) Division of Public Utilities.

(c) A provider who omits any UUSF surcharge pursuant to Subsection R746-8-301(3)(a) shall report monthly to the Division of Public Utilities, using a method approved by the Division, the number of omissions claimed pursuant to each Subsection R746-8-301(3)(a)(i) and R746-8-301(3)(a)(ii).

KEY: Utah universal service fund, surcharges and disbursements, speech/hearing challenges, assistive devices and technology
Date of Enactment or Last Substantive Amendment: ~~July 8,~~ 2020
Authorizing, and Implemented or Interpreted Law: 54-3-1; 54-4-1; 54-8b-15; 54-8b-10

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R747-1	Filing No. 52739

Agency Information

1. Department:	Public Service Commission	
Agency:	Utility Facility Review Board	
Building:	Heber M. Wells Building	
Street address:	160 E 300 S, 4th Floor	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 4558	
City, state, zip:	Salt Lake City, UT 84114-4558	
Contact person(s):		
Name:	Phone:	Email:
Mike Hammer	801-530-6729	michaelhammer@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R747-1. Utility Facility Review Board Rule
3. Purpose of the new rule or reason for the change:
The Utility Facility Review Board (Board) unanimously agreed to submit this proposed rule for publication in the Utah State Bulletin during a noticed public hearing on March 31, 2020. The proposed rule allows the Board to conduct electronic meetings, which have been increasingly necessary owing to the State's response to COVID-19. Staff of the Public Service Commission (PSC) make this filing in accordance with its obligation to provide administrative support to the Board pursuant to Section 54-14-302.
4. Summary of the new rule or change:
This rule establishes the Board's authority to schedule electronic meetings and interested parties' opportunity to request electronic meetings.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

There are no anticipated costs or savings to the state budget. Because this rule simply allows the Board to conduct electronic meetings, anticipated to be primarily telephonic, the costs to implement should be nominal and covered out of the PSC's existing budget.

B) Local governments:

There are no meaningful anticipated costs or savings to local governments. Local governments occasionally appear as parties in proceedings before the Board and allowing alternatives, in appropriate circumstances, for their electronic participation may allow them to avoid expenses they would otherwise incur to be physically present. Such savings may or may not materialize in any given year and are not reliably quantifiable.

C) Small businesses ("small business" means a business employing 1-49 persons):

There are no anticipated costs or savings to small businesses. Small businesses that are public utilities may conceivably appear as parties in proceedings before the Board and allowing alternatives, in appropriate circumstances, for their electronic participation may allow them to avoid expenses they would otherwise incur to be physically present. Such savings may or may not materialize in any given year and are not reliably quantifiable.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are no anticipated costs or savings to non-small businesses. Utilities occasionally appear as parties in proceedings before the Board and allowing alternatives, in appropriate circumstances, for their electronic participation may allow them to avoid expenses they would otherwise incur to be physically present. Such savings may or may not materialize in any given year and are not reliably quantifiable.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There are no meaningful anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities. Utilities occasionally appear as parties in proceedings before the Board and allowing alternatives, in appropriate circumstances, for their electronic participation may allow them to avoid expenses they would otherwise incur to be physically present. Such savings may or may not materialize in any given year and are not reliably quantifiable.

F) Compliance costs for affected persons:

No anticipated compliance costs exist. Because this rule simply allows the Board to conduct electronic meetings, anticipated to be primarily telephonic, the costs to implement should be nominal and covered out of the PSC's existing budget.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

Utility Facility Review Board Chair, Thad LeVar, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

This rule should not have a meaningful fiscal impact on businesses. When businesses that are public utilities participate in a proceeding before the Board, they may realize some fiscal benefit in the event the Board holds an

electronic meeting. Such benefit would be limited to the avoided costs associated with physical attendance and are not reliably quantifiable.

B) Name and title of department head commenting on the fiscal impacts:

Thad LeVar, Chair

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 54-14-104	Subsection 52-4-207(2)	
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/01/2020

10. This rule change MAY become effective on: 07/08/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Thad LeVar, Chair	Date:	05/21/2020
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**R747. Public Service Commission, Utility Facility Review Board
R747-1. Utility Facility Review Board Rule.**

R747-1-101. Title and Definitions.

(1) This rule R747-1 is known as the "Utility Facility Review Board Rule."

(2) As used in this Rule R747-1, "Board" means the Utility Facility Review Board created in Utah Code Section 54-14-301.

R747-1-102. Authority.

This rule is adopted pursuant to Utah Code Section 54-14-104.

R747-1-103. Electronic Meetings.

(1) An electronic meeting may be scheduled:

- (a) by the Board on its own initiative; or
- (b) at the request of an interested person who is unable to attend in person.

(2) A person who requests an electronic meeting pursuant to Subsection R747-1-103(1)(b) shall submit the request to the Board at least three business days prior to the scheduled meeting date and time.

(3) A quorum of the Board is not required to be present at a single anchor location for an electronic meeting.

(4) Any number of separate connections for participants is allowed for an electronic meeting, unless the Board limits the number of separate connections based on available equipment capability or other relevant and reasonable considerations.

(5) An electronic meeting will not be separately noticed solely to inform the public that one or more participants, including Board members, will participate telephonically.

KEY: Utility Facility Review Board, public utilities, electronic meetings

Date of Enactment or Last Substantive Amendment: 2020

Authorizing, and Implemented or Interpreted Law: 54-14-104; 52-4-207(2)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R865-19S-35	Filing No. 52764

Agency Information

1. Department:	Tax Commission	
Agency:	Auditing	
Building:	Utah State Tax Commission	
Street address:	210 N 1950 W	
City, state:	Salt Lake City, UT 84134	
Mailing address:	210 N 1950 W	
City, state, zip:	Salt Lake City, UT 84134	
Contact person(s):		
Name:	Phone:	Email:
Chantay Asper	801-297-3901	casper@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
R865-19S-35. Residential or Commercial Use of Gas, Electricity, Heat, Coal, Fuel Oils or Other Fuels Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-104
3. Purpose of the new rule or reason for the change:
The purpose of this change is to eliminate from this section unnecessary language that was codified under H.B. 56 passed in the 2020 General Session.

4. Summary of the new rule or change:
 This change removes language from this section regarding the sales taxation of fuels furnished at a single meter for residential, commercial, and industrial use because the situation was addressed in statute under H.B. 56 (2020).

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

This proposed amendment is not expected to have any fiscal impact on state government revenues or expenditures because any fiscal impact would have been addressed in the legislative fiscal note for H.B. 56 (2020) which codified current practice.

B) Local governments:

This proposed amendment is not expected to have any fiscal impact on local governments' revenues or expenditures because any fiscal impact would have been addressed in the legislative fiscal note for H.B. 56 (2020) which codified current practice.

C) Small businesses ("small business" means a business employing 1-49 persons):

This proposed amendment is not expected to have any fiscal impact on small businesses' revenues or expenditures because any fiscal impact would have been addressed in the legislative fiscal note for H.B. 56 (2020) which codified current practice.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

This proposed amendment is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because any fiscal impact would have been addressed in the legislative fiscal note for H.B. 56 (2020) which codified current practice.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This proposed amendment is not expected to result in costs or savings to persons other than small businesses or local governments because any fiscal impact would have been addressed in the legislative fiscal note for H.B. 56 (2020) which codified current practice.

F) Compliance costs for affected persons:

This proposed amendment is not expected to impose any compliance costs on affected persons because it codifies current practice.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

Commissioner Rebecca L. Rockwell of the Utah State Tax Commission has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

This proposed amendment is unlikely to result in either costs or savings to businesses.

B) Name and title of department head commenting on the fiscal impacts:

Rebecca Rockwell, Commissioner

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 59-12-104	Section 59-12-103
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	07/01/2020
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10. This rule change MAY become effective on:	07/08/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Rebecca L. Rockwell, Commissioner	Date:	05/14/2020
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R865. Tax Commission, Auditing.

R865-19S. Sales and Use Tax.

R865-19S-35. Residential or Commercial Use of Gas, Electricity, Heat, Coal, Fuel Oils or Other Fuels Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-104.

~~[A-](1)~~ "Residential use" is as defined in Section 59-12-102, and includes use in nursing homes or other similar establishments that serve as the permanent residence for a majority of the patients because they are unable to live independently.

~~[B-](2)~~ Explosives or material used as active ingredients in explosive devices are not fuels.

~~[C-] If a firm has activities that are commercial and industrial and all fuels are furnished at given locations through single meters, the predominant use of the fuels shall determine taxable status of the fuels.~~

~~[D-](3)~~ Fuel oil and other fuels must be used in a combustion process in order to qualify for the exemption from sales tax for industrial use of fuels pursuant to Section 59-12-104.

KEY: charities, tax exemptions, religious activities, sales tax
Date of Enactment or Last Substantive Amendment: ~~December 13, 2018~~ 2020

Notice of Continuation: November 10, 2016

Authorizing, and Implemented or Interpreted Law: 9-2-1702; 9-2-1703; 10-1-303; 10-1-306; 10-1-307; 10-1-405; 19-6-808; 26-32a-101 through 26-32a-113; 59-1-210; 59-12; 59-12-102; 59-12-103; 59-12-104; 59-12-105; 59-12-106; 59-12-107; 59-12-108; 59-12-118; 59-12-301; 59-12-352; 59-12-353

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R865-19S-85	Filing No. 52763

Agency Information

1. Department:	Tax Commission	
Agency:	Auditing	
Building:	Utah State Tax Commission	
Street address:	210 N 1950 W	
City, state:	Salt Lake City, UT 84134	
Mailing address:	210 N 1950 W	
City, state, zip:	Salt Lake City, UT 84134	
Contact person(s):		
Name:	Phone:	Email:
Chantay Asper	801-297-3901	casper@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
R865-19S-85. Sales and Use Tax Exemptions for Certain Purchases by a Manufacturing Facility
3. Purpose of the new rule or reason for the change:
The purpose of this amendment is to clarify the definition of "machinery, equipment, parts, and materials" consistent with statutory changes to the manufacturing sales and use tax exemption pursuant to S.B. 2001 passed in the 2018 Second Special Session.
4. Summary of the new rule or change:
The change clarifies definitions to be consistent with S.B. 2001 (2018) and current practice that items incorporated into the manufacturing process of tangible personal property to be sold are exempt from sales and use tax.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:			
This proposed amendment is not expected to have any fiscal impact on state government revenues or expenditures because any fiscal impact would have been addressed in the legislative fiscal note for S.B. 2001 (2018).			
B) Local governments:			
This proposed amendment is not expected to have any fiscal impact on local governments' revenues or expenditures because any fiscal impact would have been addressed in the legislative fiscal note for S.B. 2001 (2018).			
C) Small businesses ("small business" means a business employing 1-49 persons):			
This proposed amendment is not expected to have any fiscal impact on small businesses' revenues or expenditures because any fiscal impact would have been addressed in the legislative fiscal note for S.B. 2001 (2018).			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
This proposed amendment is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because any fiscal impact would have been addressed in the legislative fiscal note for S.B. 2001 (2018).			
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):			
This proposed amendment is not expected to result in costs or savings to persons other than small businesses or local governments because any fiscal impact would have been addressed in the legislative fiscal note for S.B. 2001 (2018).			
F) Compliance costs for affected persons:			
This proposed amendment is not expected to impose any compliance costs on affected persons because it codifies current practice.			
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0

Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head approval of regulatory impact analysis:			
Commissioner Rebecca L. Rockwell of the Utah State Tax Commission has reviewed and approved this fiscal analysis.			
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:			
This proposed amendment is unlikely to result in either costs or savings to businesses.			
B) Name and title of department head commenting on the fiscal impacts:			
Rebecca Rockwell, Commissioner			

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):		
Section 59-12-104		

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it
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receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	07/01/2020
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10. This rule change MAY become effective on:	07/08/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Rebecca L. Rockwell, Commissioner	Date:	05/14/2020
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**R865. Tax Commission, Auditing.
R865-19S. Sales and Use Tax.
R865-19S-85. Sales and Use Tax Exemptions for Certain Purchases by a Manufacturing Facility Pursuant to Utah Code Ann. Section 59-12-104.**

(1) Definitions:

(a) "Establishment" means an economic unit of operations, that is generally at a single physical location in Utah, where qualifying manufacturing processes are performed. If a business operates in more than one location (e.g., branch or satellite offices), each physical location is considered separately from any other locations operated by the same business.

(b) "Machinery, equipment, parts, and materials" means:

(i) electronic or mechanical devices or other items incorporated into a manufacturing process from the initial stage where actual processing begins, through the completion of the finished end product, and including final processing, finishing, or packaging of articles sold as tangible personal property. This definition includes automated material handling and storage devices when those devices are part of the integrated continuous production cycle; and

(ii) any accessory that is essential to a continuous manufacturing process. Accessories essential to a continuous manufacturing process include:

(A) bits, jigs, molds, or devices that control the operation of machinery and equipment; and

(B) gas, water, electricity, or other similar supply lines installed for the operation of the manufacturing equipment, but only if the primary use of the supply line is for the operation of the manufacturing equipment.

(c) "Manufacturer" means a person who functions within a manufacturing facility.

(2) The sales and use tax exemption for the purchase or lease of machinery, equipment, parts, and materials by a manufacturing facility applies only to purchases or leases of tangible personal property used in the actual manufacturing process.

(a) The exemption does not apply to purchases of items of tangible personal property that become part of the real property in which the manufacturing operation is conducted.

(b) Purchases of qualifying machinery, equipment, parts, and materials are treated as purchases of tangible personal property under Section R865-19S-58, even if the item is affixed to real property upon installation.

(3) Machinery, equipment, parts, and materials used for a nonmanufacturing activity qualify for the exemption if the machinery, equipment, parts, and materials are primarily used in manufacturing activities. Examples of nonmanufacturing activities include:

(a) research and development;

(b) refrigerated or other storage of raw materials, component parts, or finished product; or

(c) shipment of the finished product.

(4) Where manufacturing activities and nonmanufacturing activities are performed at a single physical location, machinery, equipment, parts, and materials purchased for use in the manufacturing operation are eligible for the sales and use tax exemption if the manufacturing operation constitutes a separate and distinct manufacturing establishment.

(a) Each activity is treated as a separate and distinct establishment if:

(i) no single SIC code includes those activities combined; or

(ii) each activity comprises a separate legal entity.

(b) Machinery, equipment, parts, and materials used in both manufacturing activities and nonmanufacturing activities qualify for the exemption only if the machinery, equipment, parts, and materials are primarily used in manufacturing activities.

(5) The manufacturer shall retain records to support the claim that the machinery, equipment, parts, and materials are qualified for exemption from sales and use tax under the provisions of this rule and Section 59-12-104.

KEY: charities, tax exemptions, religious activities, sales tax
Date of Enactment or Last Substantive Amendment: ~~December 13, 2018~~ 2020

Notice of Continuation: November 10, 2016
Authorizing, and Implemented or Interpreted Law: 9-2-1702; 9-2-1703; 10-1-303; 10-1-306; 10-1-307; 10-1-405; 19-6-808; 26-32a-101 through 26-32a-113; 59-1-210; 59-12; 59-12-102; 59-12-103; 59-12-104; 59-12-105; 59-12-106; 59-12-107; 59-12-108; 59-12-118; 59-12-301; 59-12-352; 59-12-353

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R865-19S-99	Filing No. 52762

Agency Information

1. Department:	Tax Commission
Agency:	Auditing
Building:	Utah State Tax Commission
Street address:	210 N 1950 W
City, state:	Salt Lake City, UT 84134
Mailing address:	210 N 1950 W
City, state, zip:	Salt Lake City, UT 84134

Contact person(s):		
Name:	Phone:	Email:
Chantay Asper	801-297-3901	casper@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R865-19S-99. Sales and Use Taxes on Vehicles Purchased in Another State Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-104
3. Purpose of the new rule or reason for the change:
As a result of the passage of H.B. 212 in the 2020 General Session, this section of this rule is no longer necessary.
4. Summary of the new rule or change:
This section of this rule is being removed because the sales and use taxation of vehicles purchased in another state is adequately addressed in the Utah code.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This proposed amendment is not expected to have any fiscal impact on state government revenues or expenditures because any fiscal impact would have been addressed in the legislative fiscal note for H.B. 212 (2020).
B) Local governments:
This proposed amendment is not expected to have any fiscal impact on local governments' revenues or expenditures because any fiscal impact would have been addressed in the legislative fiscal note for H.B. 212 (2020).
C) Small businesses ("small business" means a business employing 1-49 persons):
This proposed amendment is not expected to have any fiscal impact on small businesses' revenues or expenditures because any fiscal impact would have been addressed in the legislative fiscal note for H.B. 212 (2020).
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This proposed amendment is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because any fiscal impact would have been addressed in the legislative fiscal note for H.B. 212 (2020).

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):
This proposed amendment is not expected to result in costs or savings to persons other than small businesses or local governments because any fiscal impact would have been addressed in the legislative fiscal note for H.B. 212 (2020).

F) Compliance costs for affected persons:
This proposed amendment is not expected to impose any compliance costs on affected persons because it codifies current practice.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

Commissioner Rebecca L. Rockwell of the Utah State Tax Commission has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

This proposed amendment is unlikely to result in either costs or savings to businesses.

B) Name and title of department head commenting on the fiscal impacts:

Rebecca Rockwell, Commissioner

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 59-12-103 Section 59-12-104

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/01/2020

10. This rule change MAY become effective on: 07/08/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Rebecca L. Rockwell, Commissioner	Date:	05/14/2020
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R865. Tax Commission, Auditing.
 R865-19S. Sales and Use Tax.
~~R865-19S-99. Sales and Use Taxes on Vehicles Purchased in Another State Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-104.~~

~~No sales or use tax is due on vehicles purchased in another state by a resident of that state and transferred into this state if all sales or use taxes required by the prior state for the purchase of the vehicle have been paid. A valid, nontemporary registration card shall serve as evidence of payment.]~~

KEY: charities, tax exemptions, religious activities, sales tax
Date of Enactment or Last Substantive Amendment: ~~December 13, 2018~~2020
Notice of Continuation: November 10, 2016
Authorizing, and Implemented or Interpreted Law: 9-2-1702; 9-2-1703; 10-1-303; 10-1-306; 10-1-307; 10-1-405; 19-6-808; 26-32a-101 through 26-32a-113; 59-1-210; 59-12; 59-12-102; 59-12-103; 59-12-104; 59-12-105; 59-12-106; 59-12-107; 59-12-108; 59-12-118; 59-12-301; 59-12-352; 59-12-353

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R877-23V-23	Filing No. 52761

Agency Information

1. Department:	Tax Commission	
Agency:	Motor Vehicle Enforcement	
Building:	Utah State Tax Commission	
Street address:	210 N 1950 W	
City, state:	Salt Lake City, UT 84134	
Mailing address:	210 N 1950 W	
City, state, zip:	Salt Lake City, UT 84134	
Contact person(s):		
Name:	Phone:	Email:
Chantay Asper	801-297-3901	casper@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
R877-23V-23. Secure Areas
3. Purpose of the new rule or reason for the change:
This proposed amendment is to prohibit certain items from areas designated as secure.
4. Summary of the new rule or change:
This proposed amendment clarifies that a firearm, ammunition, a dangerous weapon, or an explosive is prohibited from any area designated as secure and operated by the Motor Vehicle Enforcement Division.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

This proposed amendment is not expected to have any fiscal impact on state government revenues or expenditures because the prohibition of these items in secure areas is not related to any foreseeable cost or savings for any party.

B) Local governments:

This proposed amendment is not expected to have any fiscal impact on local governments' revenues or expenditures because the prohibition of these items in secure areas is not related to any foreseeable cost or savings for any party.

C) Small businesses ("small business" means a business employing 1-49 persons):

This proposed amendment is not expected to have any fiscal impact on small businesses' revenues or expenditures because the prohibition of these items in secure areas is not related to any foreseeable cost or savings for any party.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

This proposed amendment is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because the prohibition of these items in secure areas is not related to any foreseeable cost or savings for any party.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This proposed amendment is not expected to result in costs or savings to persons other than small businesses or local governments because the prohibition of these items in secure areas is not related to any foreseeable cost or savings for any party.

F) Compliance costs for affected persons:

This proposed amendment clarifies that a firearm, ammunition, a dangerous weapon, or an explosive is prohibited from any area designated as secure and operated by the Motor Vehicle Enforcement Division. This proposed amendment is not expected to impose any costs on affected persons because the prohibition of these items in secure areas is not related to any foreseeable cost or savings for any party.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in

this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

Commissioner Rebecca L. Rockwell of the Utah State Tax Commission has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

This proposed amendment is unlikely to result in either costs or savings to businesses.

B) Name and title of department head commenting on the fiscal impacts:

Rebecca Rockwell, Commissioner

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 53-1-102	Section 76-10-523.5	Section 53-5-710
Section 76-8-311.1		

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	07/01/2020

10. This rule change MAY become effective on:	07/08/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

Agency Authorization Information

Agency head or designee, and title:	Rebecca L. Rockwell, Commissioner	Date:	05/14/2020
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R877. Tax Commission, Motor Vehicle Enforcement. R877-23V. Motor Vehicle Enforcement. R877-23V-23. Secure Areas Pursuant to Utah Code Ann. Sections 53-1-102, 53-5-710, 76-8-311.1, and 76-10-523.5.

The following are prohibited in an area designated as a secure area and operated by the Motor Vehicle Enforcement Division:

- (1) a firearm;
- (2) ammunition;
- (3) a dangerous weapon; or
- (4) an explosive.

KEY: taxation, law enforcement, secure area, weapons
Date of Enactment or Last Substantive Amendment: ~~July 14, 2016~~ 2020
Authorizing, and Implemented or Interpreted Law: 53-1-102; 53-5-710; 76-8-311.1; 76-10-523.5

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R895-14	Filing No. 52626

Agency Information

1. Department:	Technology Services	
Agency:	Administration	
Room no.:	6th Floor	
Street address:	1 State Office Building	
City, state:	Salt Lake City, UT 84114	
Mailing address:	1 State Office Building, 6th Floor	
City, state, zip:	Salt Lake City, UT 84114	
Contact person(s):		
Name:	Phone:	Email:
Stephanie Weteling	801-538-3284	stephanie@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R895-14. Access to Information Technology for Users with Disabilities
3. Purpose of the new rule or reason for the change:
This amendment is to update version of W3C Web Content Accessibility Guidelines to the current version, from 2.0 to 2.1.
4. Summary of the new rule or change:
The changes update version of W3C Web Content Accessibility Guidelines from 2.0 to 2.1.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
No anticipated cost or savings to the state budget. The major changes from WGAC Version 2.0 to 2.1 impact mobile devices. The Division of Technology Services (Division) does not expect a significant cost to implement the changes needed for mobile devices.
B) Local governments:
No anticipated cost or savings to local governments. The major changes from WGAC Version 2.0 to 2.1 impact mobile devices. The Division does not expect a significant cost to implement the changes needed for mobile devices.
C) Small businesses ("small business" means a business employing 1-49 persons):
No anticipated cost or savings to small businesses. The major changes from WGAC Version 2.0 to 2.1 impact mobile devices. The Division does not expect a significant cost to implement the changes needed for mobile devices.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

No anticipated cost or savings to non-small businesses. The major changes from WGAC Version 2.0 to 2.1 impact mobile devices. The Division does not expect a significant cost to implement the changes needed for mobile devices.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

No anticipated cost or savings to persons other than small businesses, non-small businesses, or state or local government entities. The major changes from WGAC Version 2.0 to 2.1 impact mobile devices. The Division does not expect a significant cost to implement the changes needed for mobile devices.

F) Compliance costs for affected persons:

No compliance costs for affected persons. The major changes from WGAC Version 2.0 to 2.1 impact mobile devices. The Division does not expect a significant cost to implement the changes needed for mobile devices.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Executive Director and CIO of the Department of Technology Services, Michael Hussey, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There is no fiscal impact on businesses due to the rule change. The major changes from WGAC Version 2.0 to 2.1 impact mobile devices. The Division does not expect a significant cost to implement the changes needed for mobile devices.

B) Name and title of department head commenting on the fiscal impacts

Michael Hussey, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 63F-1-102	Section 63F-1-205	Section 63F-1-206
Section 63F-1-210		

Incorporations by Reference Information

8. A) This rule adds, updates, or removes the following title of materials incorporated by references:

	First Incorporation
Official Title of Materials Incorporated (from title page)	Web Content Accessibility Guidelines (WCAG) 2.1
Publisher	W3C
Date Issued	06/05/2018
Issue, or version	Version 2.1

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency

not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/01/2020

10. This rule change MAY become effective on: 07/08/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Michael Hussey, Executive Director	Date:	05/15/2020
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R895. Technology Services, Administration.

R895-14. Access to Information Technology for Users with Disabilities.

R895-14-1. Purpose and Authority.

(1) This rule establishes minimum standards for accessibility of executive branch agency information technology by an individual with a disability, and a grievance reporting procedure. ~~Each state agency shall develop, procure, maintain, and use accessible electronic information and Information Technology (IT) acquired on or after June 1, 2015, that conforms to the applicable provisions set forth by s. 508 of the Rehabilitation Act of 1973, as amended, and 29 U.S.C. s. 794(d), including the regulations set forth under 36 C.F.R. part 1194, and the voluntary guidelines reflected W3C Web Content Accessibility Guidelines (WCAG) Version 2.0.~~

~~Information Technology accessibility ensures that people with and without disabilities can access the same information, perform the same tasks, and receive the same services using information technology. It is the digital equivalent to accessibility in the physical environment. While IT accessibility can provide usability benefits to everyone who uses IT, accessibility is vital to many people with disabilities.~~

(2) This rule is established in accordance with ~~under the authority of~~ Sections 63F-1-102, ~~§~~ 63F-1-205, ~~§~~ and 63F-1-206 ~~as amended~~, and 63F-1-210 ~~as enacted~~.

~~(1) Undue Burden to Agencies.~~

~~If compliance with this rule causes an undue burden to agencies, agencies may propose an alternative method of access that allows users with disabilities to use information and data. The alternative method must be submitted to the CIO in writing, and the CIO must approve.~~

~~(2) Accessibility Testing Protocols.~~

~~The Department of Technology Services provides guidelines for accessibility testing and revises them on a regular schedule for use by State Agencies. Current testing protocols measure accessibility against United States Public Access Board Guidelines of 2015, including Section 508 of the Rehabilitation Act of 1973 as amended, and W3C Web Content Accessibility Guidelines (WCAG) Version 2.0.]~~

R895-14-2. Scope of Application.

This rule is applicable to ~~all State of Utah~~ ~~Executive~~ ~~branch~~ ~~agencies~~ that are under the jurisdiction of the ~~State~~ CIO per Title 63F, The Utah Technology Governance Act.

(1) Exceptions.

Agencies excepted include only those agencies specifically excluded by ~~statute in Title 63F, The Utah Technology Governance Act as amended~~ Section 63F-1-102.

(2) Conditions.

~~The intent of this rule is to provide a best effort approach to accessibility that ensures~~ Agencies subject to this Rule shall ensure that people with and without disabilities can access the same information, perform the same tasks, and receive the same services using information technology.

(3) Limitations.

This rule does not apply to information technology deployed prior to June 1, 2015.

R895-14-3. Accessibility Criteria for Agency Websites, Hardware and Software Procured by an Agency, and Information Systems Used by an Agency Employee.

Agency websites, hardware and software procured by an agency, and information systems used by an agency employee created after ~~adoption of this rule~~ June 1, 2015 will conform at minimum to W3C Web Content Accessibility Guidelines (WCAG) Version 2.0. Compliance testing protocols shall include a variety of access limitations and shall be repeated until no errors are indicated using ~~current DTS accessibility guideline recommendations~~ ~~Testing will reflect compliance based upon no errors at then current DTS accessibility guideline recommendations.~~

(1) Incorporations by Reference.

W3C Web Content Accessibility Guidelines (WCAG) Version 2.0 is incorporated by reference ~~as published at~~ <http://www.w3.org/TR/WCAG20/>.

(2) Agency Discretion.

Agency websites, hardware and software procured by an agency, and information systems used by an agency employee ~~for public and internal use~~ shall either comply with accessibility guidelines ~~irrespective of then current audience accessibility needs~~ or provide an alternative method of access with full functionality.

(3) Vendor Accessibility Certification.

Vendors developing websites, hardware, or software for an agency, or information systems used by an agency, shall comply with applicable accessibility guidelines. ~~Vendors developing new websites or applications for agencies are required to meet accessibility guidelines subject to this rule. The contractor must correct new websites that do not meet accessibility guidelines without cost to the agency.]~~

R895-14-4. Accessibility Criteria for Hardware and Software.

Hardware and software products acquired after June 1, 2015 shall comply with W3C Guidance on Applying WCAG 2.0 to Non-Web Information and Communications Technologies (WCAG2ICT), which is incorporated by reference. These guidelines are published at <http://www.w3.org/TR/wcag2ict>.

(1) Agency Discretion.

Agency hardware and software procurements shall comply with accessibility guidelines irrespective of then current known user accessibility needs, or the agency must provide individuals with disabilities with an alternative method of access that allows the individual to use the hardware and software.

(2) Vendor Accessibility Certification.

~~Vendors proposing IT products and services for use by the State of Utah shall provide Voluntary Product Accessibility Template (VPAT) documents. (A VPAT is a document provided by a vendor documenting compliance with Section 508.) Vendors will also meet accessibility requirements included in State of Utah Standard Terms and Conditions for IT contracts.~~

R895-14-~~5~~4. Accessibility for Existing Legacy Information Systems used by Executive Branch Agencies.

Agencies shall ~~develop~~ensure that plans ~~are developed~~ to address IT accessibility issues ~~once identified~~ in existing systems, subject to available funding. Examples of remediation plans include~~Corrective actions in project plans,~~ procurement of ~~more~~ accessible IT ~~and~~ or providing alternate means of access to the IT product or service. ~~are examples of possible remediation. Such changes are voluntary and are not mandated by this rule.~~

(1) Agency Discretion.

Agencies will make reasonable efforts to comply with accessibility guidelines for legacy information systems, and ~~at minimum,~~ must provide individuals with disabilities with an alternative method of access that allows the individual to use ~~the hardware and software associated with the~~ legacy information systems.

R895-14-~~6~~5. Grievance Reporting Procedures.

The Department of Technology Services shall provide accessible forms for reporting accessibility issues that can be accessed in the standard Utah.gov Website footer used by agency Websites. In

addition, a contact number is provided on agency Websites to report accessibility issues.

(1) Responding to Accessibility Violations.

DTS shall respond to accessibility violation reports within 30 ~~working~~ calendar days with suggestions for remediation ~~and possible timelines as appropriate~~.

R895-14-6. Undue Burden to Agencies.

(1) If compliance with this rule causes an undue burden to agencies; agencies may propose an alternative method of access that allows users with disabilities to use information and data. The alternative method must be submitted to the CIO in writing, and the CIO shall approve or deny the proposal in writing.

(2) Accessibility Testing Protocols.

The Department of Technology Services provides guidelines for accessibility testing and revises them on a regular schedule for use by agencies. Current testing protocols measure accessibility against United States Public Access Board Guidelines of 2015, including Section 508 of the Rehabilitation Act of 1973 as amended, and W3C Web Content Accessibility Guidelines (WCAG) Version 2.1.

KEY: accessibility guidelines, information technology for users with disabilities, web accessibility

Date of Enactment or Last Substantive Amendment: ~~August 7, 2015~~2020

Authorizing, and Implemented or Interpreted Law: 63F-1-206; 63F-1-210

End of the Notices of Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **120-DAY RULE** is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text (~~example~~). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (.) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective when filed with the Office of Administrative Rules, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a **120-DAY RULE** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-DAY RULES**. However, when an agency files a **120-DAY RULE**, it may file a **PROPOSED RULE** at the same time, to make the requirements permanent.

Emergency or **120-DAY RULES** are governed by Section 63G-3-304, and Section R15-4-8.

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R357-32	Filing No. 52754

Agency Information

1. Department:	Governor	
Agency:	Economic Development	
Building:	World Trade Center	
Street address:	60 E South Temple	
City, state, zip:	Salt Lake City, UT 84111	
Mailing address:	60 E South Temple	
City, state, zip:	Salt Lake City, UT 84111	
Contact person(s):		
Name:	Phone:	Email:
Dane Ishihara	801-538-8664	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R357-32. COVID-19 Commercial Rental Assistance Program Rule

3. Effective Date:

05/08/2020

4. Purpose of the new rule or reason for the change:

During the 2020 Fourth Special Session, S.B. 3006 passed and directed the Governor's Office of Economic Development (GOED) to establish and administer the COVID-19 Commercial Rental Assistance Program that grants rental relief to certain businesses that have lost revenue as a result of measures taken to minimize the public's exposure to COVID-19.

5. Summary of the new rule or change:

This new rule will codify the administration of the COVID-19 Commercial Rental Assistance Program by establishing definitions, authority, program and documentation requirements, and a revenue loss calculation. The program will provide assistance to small businesses in the state that have been impacted by the COVID-19 pandemic.

6. Regular rulemaking would:

X	cause an imminent peril to the public health, safety, or welfare;
	cause an imminent budget reduction because of budget restraints or federal requirements; or
	place the agency in violation of federal or state law.
Specific reason and justification:	
GOED is responsible for economic development in the state and is tasked with, among other things, administering grant programs to enhance the economic health and vitality of the state and its business community. This rule will govern the new COVID-19 Commercial Rental Assistance Program that will provide assistance to small businesses in the state that have been impacted by the COVID-19 pandemic.	

Fiscal Information

7. Aggregate anticipated cost or savings to:
A) State budget:
There is no aggregate anticipated cost or savings to the state budget. This rule establishes the requirements for participation in the COVID-19 Commercial Rental Assistance Program.
B) Local governments:
There is no aggregate anticipated cost or savings to local governments because local governments are not required to comply with or enforce this rule.
C) Small businesses ("small business" means a business employing 1-49 persons):
Forty million in funds will be awarded to small businesses in the state. The COVID-19 Commercial Rental Assistance Program is designed to serve Utah's small businesses that have been impacted by the COVID-19 pandemic.
D) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):
There is no aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities because this proposed rule does not create new obligations for persons other than small businesses, businesses, or local government entities, nor does it increase the costs associated with any existing obligation.
8. Compliance costs for affected persons:
There are no compliance costs for affected persons because participation in the program is optional.

9. A) Comments by the department head on the fiscal impact this rule may have on businesses:
I have reviewed this fiscal analysis and agree with the described fiscal impacts associated with this rule. The Commercial Rental Assistance Program will help many of Utah's commercial property leasees in need of help because of the coronavirus pandemic. GOED hopes the grants that are distributed will help Utah businesses get back on their feet as quickly as possible.
B) Name and title of department head commenting on the fiscal impacts:
Val Hale, Executive Director

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):
Section 63N-14-202

Agency Authorization Information

Agency head or designee, and title:	Val Hale, Executive Director	Date:	05/08/2020
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R357. Governor, Economic Development.

R357-32. COVID-19 Commercial Rental Assistance Program Rule

R357-32-101. Title.

This rule is known as the "COVID-19 Commercial Rental Assistance Program Rule."

R357-32-102. Definitions.

In addition to the definitions under Section 63N-14-102 the following terms are defined:

(1) "Awardee" means a qualified business entity that has been awarded a grant under the program.

(2) "Master lease" means a rental agreement between the owner of a commercial property and its direct tenant.

(3) "Profit & loss statement" means a document that, at a minimum, establishes:

(a) the business entity's name;

(b) the timeframe the document represents;

(c) gross revenue;

(d) expenses; and

(e) net income.

R357-32-103. Authority.

This rule is adopted by the office under the authority of Section 63N-14-202.

R357-32-104. Program and Documentation Requirements.

(1) To qualify for a grant an applicant must be a direct tenant that has entered into a master lease.

(2) An awardee shall receive only one grant under the program.

(3) An awardee shall use program funds to pay the business entity's master lease costs.

(4) The office will not issue a grant until all required information and documentation is submitted and approved, as determined by the office. Only complete applications will be considered submitted.

(5) In addition to the requirements under Subsection 63N-14-201 (4) an applicant shall submit to the office:

- (a) a current and active master lease;
- (b) evidence of most recent master lease payment;
- (c) signed W-9 form;
- (d) profit & loss statement for February 2020; and
- (e) profit & loss statement of the four week period of revenue loss.

R357-32-105. Revenue loss calculation.

To measure monthly gross revenue loss the business's gross revenue for any four week period beginning on or after March 1, 2020, as designated by the business, will be compared to the business's gross revenue for the month of February 2020.

KEY: rent assistance, commercial rent, small business
Date of Enactment or Last Substantive Amendment: May 8, 2020
Authorizing, and Implemented or Interpreted Law: 63N-14-202

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R380-400	Filing No. 52680

Agency Information

1. Department:	Health	
Agency:	Administration	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 141000	
City, state, zip:	Salt Lake City, UT 84114-1000	
Contact person(s):		
Name:	Phone:	Email:
Richard Oborn	801-538-6504	medicalcannabis@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R380-400. Utah Medical Cannabis Act Rule
3. Effective Date:
05/11/2020
4. Purpose of the new rule or reason for the change:

The Utah Medical Cannabis Act, Title 26, Chapter 61a, requires that the Utah Department of Health (Department) establish rules related to medical cannabis cardholders, medical cannabis pharmacies, medical cannabis home delivery services, qualified medical providers, pharmacy medical providers, medical cannabis pharmacy agents, medical cannabis couriers, medical cannabis courier agents, and other rules.

5. Summary of the new rule or change:

This rule filing defines terms used in Title 26, Chapter 61a, Utah Medical Cannabis Act and Rules R380-400 through R380-411. (EDITOR'S NOTE: A corresponding proposed Rule R380-400 is under ID No. 52606 that was published in the April 15, 2020, issue of the Bulletin.)

6. Regular rulemaking would:

- cause an imminent peril to the public health, safety, or welfare;
- cause an imminent budget reduction because of budget restraints or federal requirements; or
- place the agency in violation of federal or state law.

Specific reason and justification:

The basis for filing this as an emergency rule is that it would cause imminent peril to the public health and safety to delay its implementation. This rule includes definitions applicable to critical health and safety standards appearing in other rules and the Department is unable to enforce those standards without the definitions set forth in the this rule.

Fiscal Information

7. Aggregate anticipated cost or savings to:

A) State budget:

This rule filing only defines terms used in Title 26, Chapter 61a, Utah Medical Cannabis Act and Rules R380-400 through R380-411 and the definitions have no anticipated cost or savings impact on the state budget.

B) Local governments:

This proposed rule will not result in a fiscal impact to local governments because this rule does not establish requirements for enforcement by local agencies.

C) Small businesses ("small business" means a business employing 1-49 persons):

Defining child care facility or preschool as only those approved by the Department to have a capacity of 300 or more children in Subsection R380-400-2(4) decreases the number applicable facilities from 375 to 3. This change will likely have savings impact on medical cannabis pharmacies because it reduces restrictions on where they can locate and increases the number of available real estate options. At this time, the extent of savings impact

on medical cannabis pharmacies prompted by this rule is unknown.

D) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule only defines terms used in Title 26, Chapter 61a, Utah Medical Cannabis Act and Rules R380-400 through R380-411 and the definitions have no anticipated cost or savings impact on persons other than small businesses, businesses, or local government entities.

8. Compliance costs for affected persons:

This rule only defines terms used in Title 26, Chapter 61a, Utah Medical Cannabis Act and Rules R380-400 through R380-411 and the definitions have no anticipated cost or savings impact on affected persons.

9. A) Comments by the department head on the fiscal impact this rule may have on businesses:

This rule sets out the authority and definitions used throughout the rules administering the medical cannabis program. It is necessary to use the emergency rulemaking process because it would cause imminent peril to public health and safety to delay its implementation. This rule includes definitions applicable to critical health and safety standards appearing in other rules and the Department is unable to enforce those standards without the definitions set forth in this rule. It has been determined that this rule will not have a fiscal impact on businesses.

B) Name and title of department head commenting on the fiscal impacts:

Joseph K. Miner, MD, Executive Director

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Title 26, Chapter 61a		
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Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	04/20/2020
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R380. Health, Administration.

R380-400. Utah Medical Cannabis Act Rule.

R380-400-1. Authority and Purpose.

Pursuant to Section 26-1-5(1), this rule defines terms used in Title 26, Chapter 61a, Utah Medical Cannabis Act and Sections R380-400 through R380-411.

R380-400-2. Definitions.

(1) The definitions in Section 26-61a-102 apply in this rule. In addition the following definitions apply in this rule:

(2) "Card" means any type of medical cannabis card or registration card, whichever is applicable, authorized under Title 26, Chapter 61a.

(3) "Cardholder area" means the area of a medical cannabis pharmacy where products are purchased that is restricted to medical cannabis cardholders, medical cannabis pharmacy employees, or other individuals authorized by the medical cannabis pharmacy's PIC.

(4) "Child-care facility or preschool" means a child-care facility approved by the Department to have a capacity of 300 or more children.

(5) "Courier agent" means a medical cannabis courier agent.

(6) "Department" means the Utah Department of Health.

(7) "Direct supervision" means that a PMP is physically present at a medical cannabis pharmacy facility and immediately available for in person face-to-face communication with the pharmacy agent.

(8) "EVS" means the electronic verification system established in Section 26-61-103.

(9) "ICS" means the inventory control system established in Section 4-41a-103.

(10) "Limited access area" means an indoor area of a medical cannabis pharmacy facility where medical cannabis and medical cannabis devices shall be stored, labeled, and disposed of that is separated from the cardholder and public areas of the medical cannabis pharmacy by a physical barrier with suitable locks and an electronic barrier to detect entry doors.

(11) "Pharmacy agent" means a medical cannabis pharmacy agent.

(12) "PIC" means a pharmacist in charge who oversees the operation and generally supervises a medical cannabis pharmacy.

(13) "PMP" means a medical cannabis pharmacy medical provider.

(14) "Public area" means an area of the medical cannabis pharmacy where the public waits for cardholders and cardholders wait for authorization to enter the cardholder area. Non-cardholders and non-employees may be present in this area of the medical cannabis pharmacy.

(15) "OMP" means a qualified medical provider.

(16) "UDAF" means the Utah Department of Agriculture and Food.

(17) "Utah resident" means an individual who has established a domicile in Utah.

KEY: medical cannabis, marijuana

Date of Enactment or Last Substantive Amendment: May 11, 2020
Authorizing, and Implemented or Interpreted Law: 26-1-5(1); 26-61a; 63G-3

NOTICE OF EMERGENCY (120-DAY) RULE

Utah Admin. Code Ref (R no.):	R380-401	Filing No. 52681
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Agency Information

1. Department:	Health
Agency:	Administration
Building:	Cannon Health Building

Street address:	288 N 1460 W	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 141000	
City, state, zip:	Salt Lake City, UT 84114-1000	
Contact person(s):		
Name:	Phone:	Email:
Richard Oborn	801-538-6504	medicalcannabis@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:	
R380-401. Electronic Verification System	
3. Effective Date:	
05/11/2020	
4. Purpose of the new rule or reason for the change:	
The Utah Medical Cannabis Act, Title 26, Chapter 61a, requires the Utah Department of Health (Department) to establish rules related to medical cannabis cardholders, medical cannabis pharmacies, medical cannabis home delivery services, qualified medical providers, pharmacy medical providers, medical cannabis pharmacy agents, medical cannabis courier, medical cannabis courier agents, and other rules.	
5. Summary of the new rule or change:	
This rule filing establishes electronic verification system and inventory control system access limitations and standards and confidentiality requirements. (EDITOR'S NOTE: A corresponding proposed Rule R380-401 is under ID No. 52607 that was published in the April 15, 2020, issue of the Bulletin.)	
6. Regular rulemaking would:	
X	cause an imminent peril to the public health, safety, or welfare;
	cause an imminent budget reduction because of budget restraints or federal requirements; or
	place the agency in violation of federal or state law.
Specific reason and justification:	
The basis for filing this as an emergency rule is that it would cause imminent peril to public health and safety to delay its implementation. This rule establishes critical definitions and standards related to access to and confidentiality of data stored in medical cannabis electronic systems and the Department is unable to enforce those critical definitions and standards without the definitions and standards set forth in the this rule.	

Fiscal Information

7. Aggregate anticipated cost or savings to:
A) State budget:
This proposed rule only establishes electronic verification system and inventory control system access limitations and standards and confidentiality requirements and it has no anticipated cost or savings impact on the state budget.
B) Local governments:
This proposed rule will not result in a fiscal impact to local governments because this rule does not establish requirements for enforcement by local agencies.
C) Small businesses ("small business" means a business employing 1-49 persons):
This proposed rule will not result in a fiscal impact to small businesses because this rule does not establish requirements for small businesses.
D) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):
This proposed rule only establishes electronic verification system and inventory control system access limitations and standards and confidentiality requirements and it has no anticipated cost or savings impact on persons other than small businesses, businesses, or local government entities.
8. Compliance costs for affected persons:
This rule only establishes electronic verification system and inventory control system access limitations and standards and confidentiality requirements, and it has no anticipated cost or savings impact on affected persons.
9. A) Comments by the department head on the fiscal impact this rule may have on businesses:
This rule filing establishes electronic verification system and inventory control system access limitations and standards and confidentiality requirements. It would cause imminent peril to public health and safety to delay the implementation of this rule because it establishes critical definitions and standards related to access to and confidentiality of data stored in medical cannabis electronic systems and the Department is unable to enforce those critical definitions and standards without the definitions and standards set forth in the this rule.
It has been determined that this rule will not have a fiscal impact on businesses.
B) Name and title of department head commenting on the fiscal impacts:
Joseph K. Miner, MD, Executive Director

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Subsection 26-61a-103(4)	Subsection 26-1-5(1)	Title 26, Chapter 61a
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Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	04/20/2020
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R380. Health, Administration.

R380-401. Electronic Verification System and Inventory Control System.

R380-401-1. Authority and Purpose.

Pursuant to Subsections 26-1-5(1) and 26-61a-103(4), this rule establishes EVS and ICS access limitations and standards and confidentiality requirements.

R380-401-2. Definitions.

For purposes of this section, the following definitions apply:

1) "Law enforcement personnel" means law enforcement personnel who have access to UCIJIS.

2) "Safeguard" means to maintain the confidentiality of the information accessed and not use, release, publish, disclose or otherwise make available to any other person not authorized to access the information, for any other purpose than as specifically authorized or permitted by applicable law.

3) "State agency employee" means an employee of the Utah Department of Health, Utah Department of Agriculture and Food, Utah Department of Technology Services and the Utah Department of Commerce, Division of Occupational and Professional Licensing.

4) "UCIJIS" means the Utah Criminal Justice Information System.

R380-401-3. Access Limitations and Standards.

(1) A person requests access to the data in the EVS and ICS by creating an account to begin an EVS or ICS application process.

(2) The following individuals may access information in the EVS about themselves or other cardholders for whom they are a guardian or caregiver to the extent allowed in Title 26, Chapter 61a, Utah Medical Cannabis Act or Title 4, Chapter 41a:

- (a) medical cannabis patient cardholder;
- (b) medical cannabis guardian cardholder; and
- (c) medical cannabis caregiver cardholder.

(3) The following individuals may be granted EVS access to the extent allowed in Title 26, Chapter 61a, Utah Medical Cannabis Act or Title 4, Chapter 41a, Cannabis Productions Establishments, and this rule:

- (a) QMP;
- (b) PMP;
- (c) pharmacy agent;
- (d) courier agent;
- (e) cannabis production establishment agent;
- (f) state agency employee; and
- (g) law enforcement personnel.

(4) A medical cannabis cardholder may be granted EVS access for purposes specified in Title 26, Chapter 61a, Utah Medical Cannabis Act, and this rule, including:

- (a) to submit card applications, both initial and renewal;
- (b) to submit online payment of fees;
- (c) to submit petitions to the Compassionate Use Board;
- (d) to gain access to home delivery medical cannabis pharmacy websites to order products; and

(e) to complete surveys reporting patient outcomes and interactions with medical cannabis.

(5) A QMP may be granted EVS access and ICS access for purposes specified in Title 26, Chapter 61a, Utah Medical Cannabis Act, and this rule, including:

- (a) to complete QMP registration, both initial and renewal;
- (b) to complete online fee payment;
- (c) to submit, review, edit, or change a patient's medical information;

(d) to submit recommendations on behalf of a patient to receive a specific dosage type and dosage amount of medical cannabis; and

(e) to complete surveys reporting patient outcomes and interactions with medical cannabis.

(6) A PMP may be granted EVS access and ICS access for purposes specified in Title 26, Chapter 61a, Utah Medical Cannabis Act, and this rule, including:

- (a) to complete PMP registration, both initial and renewal;
- (b) to complete online fee payment;
- (c) to review and verify dosing parameters in patient's medical cannabis recommendation submitted by a QMP;

(d) to enter dosing parameters in a medical cannabis recommendation if it does not contain dosing parameters;

(e) to complete surveys reporting patient outcomes and interactions with medical cannabis; and

(f) to update employment status of PMPs and pharmacy agents.

(7) An authorized state agency employee may be granted EVS access or ICS access for purposes specified in Title 26, Chapter 61a, Utah Medical Cannabis Act, and Title 4, Chapter 41a, Cannabis Productions Establishments, and this rule, including:

- (a) to process applications submitted by license and card applicants, both initial and renewal;
- (b) to review inventory of medical cannabis pharmacies and cannabis production establishments;
- (c) to manage petitions submitted to the Compassionate Use Board; and

(d) to run epidemiological reports and statistics from data stored in the EVS.

(8) A cannabis production establishment agent, pharmacy agent, and a courier agent may be granted EVS access and ICS access for purposes specified in Title 26, Chapter 61a, Utah Medical Cannabis Act, and this rule, including

- (a) for the purpose of completing agent registration, both initial and renewal
- (b) to complete online payments of fees
- (c) to update employment status.

(9) State and local law enforcement personnel may be granted EVS access through UCIJIS for the purpose of determining if an individual is in compliance with the state medical cannabis law.

R380-401-4. Applications for Access.

(1) A person listed in Subsection R380-401-3 requests access to the data in the EVS and ICS by creating an account to begin an EVS or ICS application process.

(2) An applicant's EVS access and ICS access is limited to the information submitted by the applicant until the application is approved.

(3) Once an application is approved, the level of EVS access and ICS access granted shall depend on the type of card or license issued.

(a) Requests for access shall be completed within the EVS application interface.

(b) Appropriate access shall be automatically requested with all cardholder and license applications when applicable.

(c) A separate request for access may be completed when the Department determines that a card or license application is not required.

(d) All required fields of a card or license application shall be completed by an applicant.

(e) A request for access will not be considered submitted unless all required information is provided.

R380-401-5. Confidentiality Requirements.

(1) A person authorized to access information in the EVS and the ICS shall access only the minimum amount of information necessary to perform authorized functions specified in Title 26, Chapter 61a, Utah Medical Cannabis Act, Title 4, Chapter 41a, Cannabis Productions Establishments, R68-27 and this rule.

(2) A person authorized to access information in the EVS and the ICS shall safeguard all information stored in those systems, including specific information about medical cannabis cardholders.

(3) The Executive Director of the Department or his or her designee shall determine if an emergency situation warrants immediate release of medical cannabis cardholder information to another state agency. The information may be released only to another governmental agency under the Memorandum of Understanding or data sharing agreement between the Department and the requesting agency.

(4) A person authorized to access the EVS or ICS who fails to observe the confidentiality requirements of this rule may lose access the EVS and ICS and may be subject to the penalties provided in Section 26-61a-103.

KEY: medical cannabis, medical cannabis pharmacy, inventory control system, electronic verification system

Date of Enactment or Last Substantive Amendment: May 11, 2020
Authorizing, and Implemented or Interpreted Law: 4-41a; 26-1-5(1); 26-61a-103(4); 63G-3

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R380-402	Filing No. 52683

Agency Information

1. Department:	Health
Agency:	Administration
Building:	Cannon Health Building
Street address:	288 N 1460 W

City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 141000	
City, state, zip:	Salt Lake City, UT 84114-1000	
Contact person(s):		
Name:	Phone:	Email:
Richard Oborn	801-538-6504	medicalcannabis@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R380-402. Medical Cannabis Cards
3. Effective Date:
05/11/2020
4. Purpose of the new rule or reason for the change:
The Utah Medical Cannabis Act, Section 26-61a-201 requires that the Utah Department of Health (Department) establish rules related to medical cannabis cardholders.
5. Summary of the new rule or change:
This proposed rule establishes medical cannabis card application procedures and renewal application procedures. (EDITOR'S NOTE: A corresponding proposed Rule R380-402 is under ID No. 52608 that was published in the April 15, 2020, issue of the Bulletin.)
6. Regular rulemaking would:
X cause an imminent peril to the public health, safety, or welfare;
cause an imminent budget reduction because of budget restraints or federal requirements; or
place the agency in violation of federal or state law.
Specific reason and justification:
The basis for filing this as an emergency rule is that it would cause imminent peril to the public health and safety to delay its implementation. This rule establishes critical definitions and standards related to access to and confidentiality of data stored in medical cannabis electronic systems and the Department is unable to enforce those critical definitions and standards without the definitions and standards set forth in the this rule.

Fiscal Information

7. Aggregate anticipated cost or savings to:
A) State budget:
This proposed rule will result in cost savings impact on the state budget because it allows the Department to send correspondence via email rather than regular mail unless

a cardholder requests that they receive correspondence via regular mail. The Department estimates that by making this rule, it will incur a cost savings of approximately \$400 a year. Cost savings was calculated by multiplying 1,000 by \$0.40 (1,000 letters of correspondence x \$0.40 per mailing).

B) Local governments:

This proposed rule will not result in a fiscal impact to local governments because this rule does not establish requirements for enforcement by local agencies.

C) Small businesses ("small business" means a business employing 1-49 persons):

This proposed rule will not result in a fiscal impact to small businesses because this rule does not establish requirements for small businesses.

D) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This proposed rule will not result in a fiscal impact to persons other than small businesses, businesses, or local government entities because this rule does not establish requirements for these persons.

8. Compliance costs for affected persons:

This proposed rule will not result in a fiscal impact to affected persons because this rule does not establish requirements for these persons.

9. A) Comments by the department head on the fiscal impact this rule may have on businesses:

This proposed rule establishes medical cannabis card application procedures and renewal application procedures. It is necessary to use the emergency rulemaking process in order to use these rules in the current Request for Proposal (RFP) process to issue licenses for medical cannabis pharmacies within the statutory time frame set out in the Utah Medical Cannabis Act.

It has been determined that this rule will not have a fiscal impact on businesses.

B) Name and title of department head commenting on the fiscal impacts:

Joseph K. Miner, MD, Executive Director

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following

state and federal laws. State code or constitution citations (required):

Subsection 26-61a-201(8)	Title 26, Chapter 61a	Subsection 26-1-5(1)
Subsection 26-61a-201(9)		

Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	04/20/2020
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R380. Health, Administration.

R380-402. Medical Cannabis Cards

R380-402-1. Medical Cannabis Cards - Authority and Purpose.

Pursuant to Subsections 26-1-5(1), 26-61a-201(8) and 26-61a-201(9), this rule establishes medical cannabis card application procedures and renewal application procedures.

R380-402-2. Medical Cannabis Cards -- Application Procedures.

(1) The application procedures established in this section govern all applications for initial issuance of a medical cannabis card under Title 26, Chapter 61a.

(2) Pursuant to Section 26-61a-201, upon receipt of a medical cannabis card, the Department shall provide the cardholder information regarding the following:

(a) risks associated with medical cannabis treatment;

(b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment or cure for that condition; and

(c) other relevant warnings and safety information that the Department determines.

(3) The information described in Subsection (2) shall be electronically provided to each medical cannabis cardholder and shall be accessible to the public on the Department's website.

(4) Each card applicant shall apply upon forms available from the Department.

(5) The Department may issue a card to an applicant only if the applicant meets the card requirements established under Title 26, Chapter 61a and by Department rule.

(6) The Department shall provide a written notice of denial to an applicant who submits a complete application if the Department determines that the applicant does not meet the card requirements.

(7) The Department shall provide a written notice of incomplete application that the application will be closed unless the applicant corrects the deficiencies within the time period specified in the notice and otherwise meets all card requirements.

(8) Written notices of denial and incomplete application shall be sent to the applicant's last email address shown in the Department's EVS database unless the cardholder has requested to be notified by regular mail.

(9) Each applicant shall maintain a current email and mailing address with the Department. Notice to the last email address on file with the Department constitutes legal notice unless the cardholder has requested to be notified by regular mail.

R380-402-3. Medical Cannabis Cards - Renewal Application Procedures.

(1) Renewal application procedures established in this section shall govern applications to renew a medical cannabis card under Title 26, Chapter 61a.

(2) Each card applicant shall apply upon renewal application forms available from the Department.

(3) The Department shall issue a card to an applicant who submits a complete renewal application if the Department determines that the applicant meets the card requirements.

(4) The Department shall provide a written notice of denial to an applicant who submits a complete renewal application if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide to an applicant a written notice of incomplete that the renewal application will be closed unless the applicant corrects the deficiencies within the time period specified in the notice and otherwise meets all card requirements.

(6) The Department shall send a renewal notice to each cardholder at least 7 days prior to the expiration date shown on the cardholder's card. The notice shall include instructions for the cardholder to renew the card via the Department's website.

(7) Renewal notices shall be sent to the cardholder's last email shown in the Department's EVS database unless the cardholder has requested to be notified by regular mail.

(8) Each cardholder is required to maintain a current email address with the Department. Emailing to the last email address furnished to the Department constitutes legal notice unless the cardholder has requested to be notified by regular mail.

(9) Renewal notices shall advise each cardholder that a card automatically expires on the expiration date and is no longer valid.

(10) If an individual's medical cannabis card expires, the individual may submit a card renewal application at any time regardless of the length of time passed since the expiration of the card.

KEY: medical cannabis card, medical cannabis, marijuana, Date of Enactment or Last Substantive Amendment: May 11, 2020 Authorizing, and Implemented or Interpreted Law: 63G-3; 26-61a; 26-1-5(1); 26-61a-201(8); 26-61a-201(9)

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R380-403	Filing No. 52684

Agency Information

1. Department:	Health	
Agency:	Administration	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 141000	
City, state, zip:	Salt Lake City, UT 84114-1000	
Contact person(s):		
Name:	Phone:	Email:

Richard Oborn	801-538-6504	medicalcannabis@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R380-403. Qualified Medical Providers
3. Effective Date:
05/11/2020
4. Purpose of the new rule or reason for the change:
Subsection 26-61a-106(3) requires the Utah Department of Health (Department) to establish rules related to qualified medical providers.
5. Summary of the new rule or change:
This proposed rule establishes definitions of terms used in the rule and application procedures and continuing education requirements for qualified medical providers (QMPs). (EDITOR'S NOTE: A corresponding proposed Rule R380-403 is under ID No. 52609 that was published in the April 15, 2020, issue of the Bulletin.)
6. Regular rulemaking would:
x cause an imminent peril to the public health, safety, or welfare;
cause an imminent budget reduction because of budget restraints or federal requirements; or
place the agency in violation of federal or state law.
Specific reason and justification:
The basis for filing this as an emergency rule is that it would cause imminent peril to the public health and safety to delay its implementation. This rule establishes critical definitions and standards related to application procedures and education requirements related to qualified medical providers and the Department is unable to enforce those critical definitions and standards without the emergency filing of this rule.

Fiscal Information

7. Aggregate anticipated cost or savings to:
A) State budget:
Under Section R380-403-5, minimal savings impact on the state budget comes as a result of the Department adopting a rule that allows businesses to create continuing education coursework to be approved by the Department rather than having the Department contract with a vendor to create this coursework. The Department is unable to estimate how much it would cost to contract with a single vendor to create it but work involved would include working with the Division of Purchasing on posting an Request for

Proposal (RFP) or coordinating with an existing state vendor.

B) Local governments:

This proposed rule will not result in a fiscal impact to local governments because this rule does not establish requirements for enforcement by local agencies.

C) Small businesses ("small business" means a business employing 1-49 persons):

Section R380-403-5 allows small businesses to create continuing education coursework to be approved by the Department rather than having the Department contract with a vendor to create this coursework. This enables small businesses to provide approved coursework at a cost to applicants seeking registration as a qualified medical provider. Small businesses are expected to charge a course registration fee of \$150 to \$300. The number of small businesses impacted by this rule is unknown because the Department has no way of knowing how many small businesses will decide to provide these courses.

D) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

Entities or individuals affected by this rule filing include some physicians, physician assistants, and advanced practice registered nurses who intend to be registered QMPs. Section R380-403-5 establishes the continuing education requirement for QMPs and the estimated cost impact of the coursework is \$150 to \$300 during each two year renewal cycle. The Department estimates that 100 medical professionals will become registered QMPs in FY 2020 and 200 in FY 2021.

8. Compliance costs for affected persons:

Entities or individuals affected by this rule filing include some physicians, physician assistants, and advanced practice registered nurses who intend to be registered QMPs. Section R380-403-5 establishes the continuing education requirement for QMPs and the estimated cost impact of the coursework is \$150 to \$300 during each two year renewal cycle. The Department estimates that 100 medical professionals will become registered QMPs in FY 2020 and 200 in FY 2021.

9. A) Comments by the department head on the fiscal impact this rule may have on businesses:

The basis for filing this as an emergency rule is that it would cause imminent peril to the public health and safety to delay its implementation. This rule establishes critical definitions and standards related to application procedures and education requirements related to qualified medical providers and the Department is unable to enforce those

critical definitions and standards without the emergency filing of this rule.

Entities or individuals affected by this rule filing include some physicians, physician assistants, and advanced practice registered nurses who intend to be registered QMPs. Section R380-403-5 establishes the continuing education requirement for QMPs and the estimated cost impact of the coursework is \$150 to \$300 during each two year renewal cycle. The Department estimates that 100 medical professionals will become registered QMPs in FY 2020 and 200 in FY 2021

This rule will necessarily fiscally impact any business that provides or pays for the coursework and applications for medical professionals to become qualified medical providers.

B) Name and title of department head commenting on the fiscal impacts:

Joseph K. Miner, MD, Executive Director

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Title 26, Chapter 61a	Subsection 26-61a-106(3)	
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Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	04/20/2020
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R380. Health, Administration.

R380-403. Qualified Medical Providers.

R380-403-1. Authority and Purpose.

Pursuant to Subsections 26-1-5(1) and 26-61a-106(3)(b), this rule establishes definitions of terms used in the rule and application procedures and continuing education requirements for QMPs.

R380-403-2. Definitions.

As used in this section:

(1) "Fundamentals of medical cannabis coursework" means a course or combination of courses with content that addresses the following subjects:

(a) endocannabinoid system and phytocannabinoids;

(b) general guidance and recommendations for medical cannabis; and

(c) history of cannabis, dosing forms, considerations, drug interactions, adverse reactions, contraindications (breastfeeding and pregnancy), and toxicology.

(d) "General medical cannabis coursework" means a course or combination of courses with content that addresses medical cannabis which may include medical cannabis law or fundamentals of medical cannabis coursework.

(2) "Medical cannabis law coursework" means a course or combination of courses with content that addresses the Utah Medical Cannabis Act and other state and federal laws relating to medical cannabis that includes, at a minimum, a review of the following:

(a) qualifying health conditions for which a patient may lawfully use medical cannabis for medicinal purposes in Utah;

(b) forms of medical cannabis that qualifying patients are allowed and prohibited under Utah law;

(c) limits of the quantities of unprocessed cannabis and cannabis products in medicinal form that may be dispensed in Utah;

(d) requirements to initially register and renew registration as a QMP;

(e) limits to the number of active medical cannabis recommendations that a QMP can make at any given time;

(f) description of what a QMP must document in a patient's record before recommending medical cannabis;

(g) information required from a QMP when writing a medical cannabis recommendation and the option to make a recommendation without specifying a dosage form and dosing parameters;

(h) a PMP's role in determining the appropriate medical cannabis dosage form and dosage parameters when a QMP chooses to recommend without specifying a dosage form and dosing parameters;

(i) limits on advertising by a QMP;

(j) types of medical cannabis cards;

(k) regulations controlling the distribution of product by medical cannabis pharmacies;

(l) partial fill orders;

(m) the role of the compassionate use board;

(n) that all medical cannabis purchased at medical cannabis pharmacies in Utah is required to be cultivated at cannabis cultivation facilities, processed at cannabis processing facilities, and that samples be tested at independent cannabis testing laboratories that are licensed in Utah and operate within Utah's medical cannabis system;

(o) the conditions of legal possession of medical cannabis under Utah law before and after January 1, 2021;

(p) legal status of medical and recreational marijuana in states surrounding Utah and under federal law;

(q) authority to change dosage parameters in a medical cannabis recommendation as outlined in R380-404;

(r) home delivery of medical cannabis; and

(s) purpose of the state central patient portal.

R380-403-3. Qualified Medical Providers -- Application Procedures.

(1) The application procedures established in this section shall govern application for initial issuance of a QMP registration card under Title 26, Chapter 61a.

(2) Each card applicant shall apply upon forms available in the EVS from the Department.

(3) The Department may issue a QMP card only if the Department determines that the applicant meets all requirements established under Title 26, Chapter 61a and by Department rule.

(4) The Department shall provide a written notice of denial to an applicant who submits a complete application if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide to the applicant a written notice of incomplete application that the application will be closed unless the applicant corrects the deficiencies within the time period specified in the notice and otherwise meets all card requirements.

(6) Written notices of denial or incomplete application shall be sent to the applicant's last email address shown in the Department's EVS database unless the applicant has requested to be notified by regular mail.

(7) Each applicant shall maintain a current email address with the Department. Notice to the last email address on file with the Department constitutes legal notice unless the applicant has requested to be notified by regular mail.

R380-403-4. Qualified Medical Provider - Renewal Application Procedures.

(1) Renewal application procedures established in this section shall govern applications to renew a QMP registration card.

(2) Each QMP registration card applicant shall apply upon renewal application forms available from the Department.

(3) The Department may issue a card to an applicant who submits a complete renewal application if the Department determines that the applicant meets the card requirements.

(4) The Department shall provide a written notice of denial to the applicant who submits a complete renewal application if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide to the applicant a written notice of incomplete that the renewal application will be closed unless the applicant corrects the deficiencies within the time period specified in the notice and otherwise meets all card requirements.

(6) The Department shall send a renewal notice to each cardholder at least 60 days prior to the expiration date shown on the QMP's card. The notice shall include instructions to renew the card in the EVS via the Department's website.

(7) Renewal notices shall be sent to the cardholder's last email shown in the Department's EVS database unless the applicant has requested to be notified by regular mail.

(8) Each cardholder shall maintain a current email address and mailing address with the Department. Emailing to the last email address on file with the Department constitutes legal notice unless the applicant has requested to be notified by regular mail.

(9) Renewal notices shall advise each cardholder that a QMP card automatically expires on the expiration date and is no longer valid if it is not renewed prior to the expiration.

(10) If an individual's QMP registration card expires, the individual may submit a card renewal application at any time regardless of the length of time passed since the expiration of the card.

R380-403-5. Qualified Medical Provider - Continuing Education Requirement.

(1) Pursuant to Section Utah Code 26-61a-106, applicants for registration as a QMP shall verify completion of four hours of continuing education. Once registered as a QMP, an individual shall complete an additional four hours of continuing education every two years as a requirement for renewal.

(2) To meet the continuing education requirement, all coursework shall include the following:

(a) approval by the Utah Department of Health;

(b) be provided by organizations accredited through the Accreditation Council for Continuing Medical Education (ACCME), Accreditation Council for Pharmacy Education (ACPE), or the American Association of Nurse Practitioners (AANP);

(c) completion of a test with a passing score, as determined by the course provider, to verify comprehension of course content; and

(d) a certificate of completion.

NOTICES OF 120-DAY (EMERGENCY) RULES

(3) Initial registration as a QMP requires at least four hours of continuing education, which shall include at a minimum:

- (a) medical cannabis law coursework; and
- (b) fundamentals of medical cannabis coursework.

(4) A QMP shall renew registration every two years after completing at least four hours of continuing education in general medical cannabis coursework to be completed within two years prior to the date of the QMP's renewal application.

(5) The continuing education report shall be submitted with an individual's application for registration as a QMP and shall include a certificate of completion for coursework completed after issuance of the most recent registration. Applications that do not include the continuing education report will be considered incomplete and the Department will not process an application until the report is complete.

KEY: medical cannabis, qualified medical provider, marijuana
Date of Enactment or Last Substantive Amendment: May 11, 2020
Authorizing, and Implemented or Interpreted Law: 63G-3; 26-61a, 26-1-5(1), 26-61a-106(3)(b)

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R380-404	Filing No. 52685

Agency Information

1. Department:	Health	
Agency:	Administration	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 141000	
City, state, zip:	Salt Lake City, UT 84114-1000	
Contact person(s):		
Name:	Phone:	Email:
Richard Oborn	801-538-6504	medicalcannabis@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R380-404. Dosing Parameters
3. Effective Date:
05/11/2020
4. Purpose of the new rule or reason for the change:
The Utah Medical Cannabis Act, Title 26, Chapter 61a, requires the Utah Department of Health (Department) to establish rules related to medical cannabis cardholders, medical cannabis pharmacies, qualified medical providers, and pharmacy medical providers.

5. Summary of the new rule or change:
This proposed rule establishes general standards for dosage parameters in a medical cannabis recommendation. (EDITOR'S NOTE: A corresponding proposed Rule R380-404 is under ID No. 52610 that was published in the April 15, 2020, issue of the Bulletin.)
6. Regular rulemaking would:
X cause an imminent peril to the public health, safety, or welfare;
cause an imminent budget reduction because of budget restraints or federal requirements; or
place the agency in violation of federal or state law.
Specific reason and justification:
The basis for filing this as an emergency rule is that it would cause imminent peril to the public health and safety to delay its implementation. This rule establishes critical standards related to dosing parameters in a medical cannabis recommendation and the Department is unable to enforce those critical standards without the definitions and standards set forth in this rule.

Fiscal Information

7. Aggregate anticipated cost or savings to:
A) State budget:
This proposed rule will not result in a fiscal impact to the state budget because this rule does not establish new requirements for Department.
B) Local governments:
This proposed rule will not result in a fiscal impact to local governments because this rule does not establish requirements for enforcement by local agencies.
C) Small businesses ("small business" means a business employing 1-49 persons):
This proposed rule will not result in a fiscal impact to the small businesses because this rule does not establish new requirements for small businesses.
D) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):
This proposed rule will not result in a fiscal impact to persons other than small businesses, businesses, or local government entities because this rule does not establish new requirements for these persons.
8. Compliance costs for affected persons:
This proposed rule will not result in a fiscal impact to affected persons because this rule does not establish new requirements for these persons.

9. A) Comments by the department head on the fiscal impact this rule may have on businesses:

This proposed rule establishes general standards for dosage parameters in a medical cannabis recommendation. The basis for filing this as an emergency rule is that it would cause imminent peril to the public health and safety to delay its implementation because the Department is unable to enforce those critical standards without the standards set forth in the this rule.

It has been determined that this rule will not have a fiscal impact on businesses.

B) Name and title of department head commenting on the fiscal impacts:

Joseph K. Miner, MD, Executive Director

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Title 26, Chapter 61a	Title 63G, Chapter 3	Subsection 26-1-5(1)
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Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	04/20/2020
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**R380. Health Administration
R380-404. Dosing Parameters.**

R380-404-1. Authority and Purpose.

Pursuant to Sections 26-1-5(1), this rule establishes standards for dosing parameters in a medical cannabis recommendation.

R380-404-2. Dosing Parameters in Medical Cannabis Recommendation.

(1) A QMP can change the dosage form or dosing parameters in the EVS for their patient. A PMP shall not change the dosage form or dosing parameters entered in the EVS by a patient's QMP without approval from the patient's QMP.

(2) A QMP may change the dosage form or dosing parameters specified by a patient's former QMP so long as the cardholder has identified the current QMP as the QMP of record and removed the former QMP from the EVS.

(3) If a QMP has not specified the dosage form or dosing parameters for a patient, a PMP may specify the dosage form and dosing parameters. If a QMP does not specify a dosing form and dosing parameters for a patient, or specifies a dosage form and some or no dosing parameters for a patient, a PMP can specify the remaining dosing parameters.

(4) A state central patient portal medical provider may specify dosage form and dosing parameters for a patient recommendation in the EVS only upon written or verbal consent from a medical cannabis cardholder and if either the dosage form or dosing parameters are not specified in the EVS by the patient's QMP.

If a QMP specifies certain dosing parameters for a patient, a state central patient portal medical provider can specify the remaining dosing parameters with written or verbal consent of the medical cannabis cardholder.

KEY: medical cannabis, medical cannabis dosing parameters, medical cannabis pharmacy

Date of Enactment or Last Substantive Amendment: May 11, 2020

Authorizing, and Implemented or Interpreted Law: 63G-3; 26-61a; 26-1-5(1)

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R380-405	Filing No. 52686

Agency Information

1. Department:	Health	
Agency:	Administration	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 141000	
City, state, zip:	Salt Lake City, UT 84114-1000	
Contact person(s):		
Name:	Phone:	Email:
Richard Oborn	801-538-6504	medicalcannabis@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R380-405. Pharmacy Medical Providers
3. Effective Date:
05/11/2020
4. Purpose of the new rule or reason for the change:
Subsection 26-61a-403(3) requires the Utah Department of Health (Department) to establish rules related to qualified medical providers.
5. Summary of the new rule or change:
This rule filing establishes definitions, pharmacy medical provider (PMP) application procedures, and PMP continuing education requirements. (EDITOR'S NOTE: A corresponding proposed Rule R380-405 is under ID No. 52611 that was published in the April 15, 2020, issue of the Bulletin.)
6. Regular rulemaking would:

NOTICES OF 120-DAY (EMERGENCY) RULES

X	cause an imminent peril to the public health, safety, or welfare;
	cause an imminent budget reduction because of budget restraints or federal requirements; or
	place the agency in violation of federal or state law.
Specific reason and justification:	
The basis for filing this as an emergency rule is that it would cause imminent peril to the public health and safety to delay its implementation. This rule establishes critical definitions and standards related to application procedures and education requirements related to qualified medical providers and the Department is unable to enforce those critical definitions and standards without the emergency filing of this this rule.	

Fiscal Information

7. Aggregate anticipated cost or savings to:
A) State budget:
Under Section R380-405-5, minimal savings impact on the state budget comes as a result of the Department adopting a rule that allows businesses to create continuing education coursework to be approved by the Department rather than having the Department contract with a vendor to create this coursework. The Department is unable to estimate how much it would cost to contract with a single vendor to create it but work involved would include working with the Division of Purchasing on posting a Request for Proposal (RFP) or coordinating with an existing state vendor.
B) Local governments:
This proposed rule will not result in a fiscal impact to local governments because this rule does not establish requirements for enforcement by local agencies.
C) Small businesses ("small business" means a business employing 1-49 persons):
Section R380-405-5 allows small businesses to create continuing education coursework to be approved by the Department rather than having the Department contract with a vendor to create this coursework. This enables small businesses to provide approved coursework at a cost to applicants seeking registration as a pharmacy medical provider. Small businesses are expected to charge a course registration fee of \$150 to \$300. The number of small businesses impacted by this rule is unknown because the Department has no way of knowing how many small businesses will decide to provide these courses.
D) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):

Entities or individuals affected by this rule filing include some physicians, and pharmacists who intend to be registered pharmacy medical providers (PMPs). Section R380-405-5 establishes the continuing education requirement for PMPs and the estimated cost impact of the coursework is \$150 to \$300 during each two year renewal cycle. The Department estimates that approximately 21 medical professionals will become registered PMPs in FY 2020 and 200 in FY 2021.

8. Compliance costs for affected persons:
Entities or individuals affected by this rule filing include some physicians, and pharmacists who intend to be registered pharmacy medical providers (PMPs). Section R380-405-5 establishes the continuing education requirement for PMPs and the estimated cost impact of the coursework is \$150 to \$300 during each two year renewal cycle. The Department estimates that approximately 21 medical professionals will become registered PMPs in FY 2020 and 200 in FY 2021.

9. A) Comments by the department head on the fiscal impact this rule may have on businesses:
This rule filing establishes definitions, pharmacy medical provider (PMP) application procedures and PMP continuing education requirements. The basis for filing this as an emergency rule is that it would cause imminent peril to the public health and safety to delay its implementation because the Department is unable to enforce those critical definitions and standards without the emergency filing of this rule.
Entities or individuals affected by this rule filing include some physicians, and pharmacists who intend to be registered pharmacy medical providers (PMPs). Section R380-405-5 establishes the continuing education requirement for PMPs and the estimated cost impact of the coursework is \$150 to \$300 during each two year renewal cycle. The Department estimates that approximately 21 medical professionals will become registered PMPs in FY 2020 and 200 in FY 2021. It has been determined that this rule will not have a fiscal impact on businesses.
This rule will fiscally impact any business that provides or pays for the coursework and applications for medical professionals to become qualified medical providers.
B) Name and title of department head commenting on the fiscal impacts:
Joseph K. Miner, MD, Executive Director

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Title 26, Chapter 61a	Subsection 26-1-5(1)	Subsection 26-61a-403(3)
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Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	04/20/2020
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R380. Health, Administration**R380-405. Pharmacy Medical Providers.****R380-405-1. Authority and Purpose.**

Pursuant to Subsections 26-1-5(1) and 26-61a-403(3)(b), this rule establishes PMP application procedures and PMP continuing education requirements.

R380-405-2. Definitions.

As used in this section:

(1) "Fundamentals of medical cannabis coursework" means a course or combination of courses with content that addresses the following subjects:

(a) endocannabinoid system and phytocannabinoids;

(b) general guidance and recommendations for medical cannabis; and

(c) history of cannabis, dosing forms, considerations, drug interactions, adverse reactions, contraindications (breastfeeding and pregnancy), and toxicology.

(2) "General medical cannabis coursework" means a course or combination of courses with content that addresses medical cannabis which may include medical cannabis law or fundamentals of medical cannabis coursework.

(3) "Medical cannabis law coursework" means a course or combination of courses with content that addresses the Utah Medical Cannabis Act and other state and federal laws relating to medical cannabis that includes, at a minimum, a review of the following:

(a) qualifying health conditions for which a patient may lawfully use medical cannabis for medicinal purposes in Utah;

(b) forms of medical cannabis that qualifying patients are allowed and prohibited under Utah law;

(c) limits of the quantities of unprocessed cannabis and cannabis products in medicinal form that may be dispensed in Utah;

(d) requirements to initially register and renew registration as a PMP;

(e) limits to the number of active medical cannabis recommendations that a QMP can make at any given time;

(f) description of what a QMP must document in patient's record before recommending medical cannabis;

(g) information required from a QMP when writing a medical cannabis recommendation and the option to make a recommendation without specifying a dosage form and dosing parameters;

(h) a PMP's role in determining the appropriate medical cannabis dosage form and dosage parameters when a QMP chooses to recommend without specifying a dosage form and dosing parameters;

(i) limits on advertising by a QMP;

(j) types of medical cannabis cards;

(k) regulations controlling the distribution of product by medical cannabis pharmacies;

(l) partial fill orders;

(m) the role of the compassionate use board;

(n) the role of cannabis cultivation facilities, cannabis processing facilities, and independent cannabis testing laboratories that operate within Utah's medical cannabis system;

(o) the conditions of legal possession of medical cannabis under Utah law before and after January 1, 2021;

(p) legal status of medical and recreational marijuana in states surrounding Utah and under federal law;

(q) authority to change dosage parameters in a medical cannabis recommendation as outlined in R380-404;

(r) home delivery of medical cannabis; and

(s) purpose of the state central patient portal.

R380-405-3. Pharmacy Medical Providers - Application Procedures.

(1) The application procedures established in this section govern all applications for initial issuance of a PMP registration card under Title 26, Chapter 61a and by Department rule.

(2) Each card applicant shall apply upon forms available in the EVS from the Department.

(3) The Department may issue a PMP card only if the applicant meets the card requirements established under Title 26, Chapter 61 and by Department rule.

(4) The Department shall provide a written notice of denial to an applicant who submits a complete application if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide to the applicant a written notice of incomplete application that the application will be closed unless the applicant corrects the deficiencies within the time period specified in the notice and otherwise meets all card requirements.

(6) Written notices of denial or incomplete application shall be sent to the applicant's last email address shown in the Department's EVS database.

(7) Each applicant shall maintain a current email address with the Department. Notice sent to the last email address on file with the Department constitutes legal notice.

R380-405-4. Pharmacy Medical Providers - Renewal Application Procedures.

(1) Renewal application procedures established in this rule shall govern applications for a PMP registration card.

(2) Each PMP card applicant shall apply upon renewal application forms available from the Department.

(3) The Department may issue a card to an applicant who submits a complete renewal application if the Department determines that the applicant meets the card requirements.

(4) The Department shall provide a written notice of denial to an applicant who submits a complete renewal application if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide to the applicant a written notice of incomplete application that the application will be closed unless the applicant corrects the deficiencies within the time period specified in the notice and otherwise meets all card requirements.

(6) The Department shall send a renewal notice to each cardholder at least 60 days prior to the expiration date shown on the PMP cardholder's card. The notice shall include directions for the to renew the card in the EVS via the Department's website.

(7) Renewal notices shall be sent to the cardholder's last email shown in the Department's EVS database.

(8) Each cardholder shall maintain a current email address and mailing address with the Department. Notice sent to the current

NOTICES OF 120-DAY (EMERGENCY) RULES

email address on file with the Department constitutes legal notice unless the applicant has requested to be notified by regular mail.

(9) Renewal notices shall advise each cardholder that a card automatically expires on the expiration date and is no longer valid if it is not renewed prior to the expiration.

(10) If an individual's PMP registration card expires, the individual may submit a card renewal application at any time regardless of the length of time passed since the expiration of the card.

R380-405-5. Pharmacy Medical Providers - Continuing Education Requirement.

(1) Pursuant to Subsection Utah Code 26-61a-403, applicants for registration as a PMP shall verify completion of four hours of continuing education. Once registered as a PMP, an individual shall complete an additional four hours of continuing education every two years as a requirement for renewal.

(2) To meet the continuing education requirement, all coursework shall include the following:

(a) approval by the Utah Department of Health;

(b) be provided by organizations accredited through the Accreditation Council for Continuing Medical Education (ACCME), Accreditation Council for Pharmacy Education (ACPE), or the American Association of Nurse Practitioners (AANP);

(c) a completion of a test with a passing score, as determined by the course provider, to verify comprehension of course content; and

(d) a certificate of completion.

(3) Initial registration as a PMP requires at least four hours of continuing education, which shall include at a minimum:

(a) medical cannabis law coursework; and

(b) fundamentals of medical cannabis coursework.

(4) A PMP shall renew registration every two years after completing at least four hours of continuing education in general medical cannabis coursework to be completed within two years prior to the date that the PMP submits the renewal application.

(5) The continuing education report shall be submitted with an individual's application for registration as a PMP and shall include a certificate of completion for coursework completed after issuance of the most recent registration. Applications that do not include the continuing education report will be considered incomplete and the Department will not process an application until the report is complete.

KEY: medial cannabis, pharmacy medical providers, marijuana
Date of Enactment or Last Substantive Amendment: May 11, 2020
Authorizing, and Implemented or Interpreted Law: 63G-3; 26-1-5(1); 26-61a-403(3)(b); 26-61a

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R380-406	Filing No. 52687

Agency Information

1. Department:	Health
Agency:	Administration
Building:	Cannon Health Building
Street address:	288 N 1460 W
City, state, zip:	Salt Lake City, UT 84116

Mailing address:	PO Box 141000	
City, state, zip:	Salt Lake City, UT 84114-1000	
Contact person(s):		
Name:	Phone:	Email:
Richard Oborn	801-538-6504	medicalcannabis@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:	R380-406. Medical Cannabis Pharmacy
3. Effective Date:	05/11/2020
4. Purpose of the new rule or reason for the change:	Sections 26-61a-501, 26-61a-503, and 26-61a-605 of the Utah Medical Cannabis Act require the Utah Department of Health (Department) to establish rules related to medical cannabis pharmacies.
5. Summary of the new rule or change:	This proposed rule establishes definitions, general medical cannabis pharmacy operating standards, partial fill standards, medical cannabis pharmacy operating plan requirements, cannabis product transportation standards, cannabis product waste and disposal standards, cannabis product recall standards, duties and requirements of a pharmacist-in-charge, security standards, supervision standards, inventory standards, cannabis product packaging standards, and standards related to closing a medical cannabis pharmacy. (EDITOR'S NOTE: A corresponding proposed Rule R380-406 is under ID No. 52614 that was published in the April 15, 2020, issue of the Bulletin.)
6. Regular rulemaking would:	<input checked="" type="checkbox"/> cause an imminent peril to the public health, safety, or welfare; <input type="checkbox"/> cause an imminent budget reduction because of budget restraints or federal requirements; or <input type="checkbox"/> place the agency in violation of federal or state law.
Specific reason and justification:	The basis for filing this as an emergency rule is that it would cause imminent peril to the public health and safety to delay its implementation. This rule establishes critical definitions and standards related to medical cannabis pharmacy operations and the Department is unable to enforce those critical definitions and standards without the emergency filing of this rule.

Fiscal Information

7. Aggregate anticipated cost or savings to:

A) State budget:

This proposed rule will not result in a fiscal impact to the state budget because it does not establish requirements for the Department.

B) Local governments:

This proposed rule will not result in a fiscal impact to local governments because this rule does not establish requirements for enforcement by local agencies.

C) Small businesses ("small business" means a business employing 1-49 persons):

Section R380-406-3 prohibits a medical cannabis pharmacy from selling or transferring their license. This may have cost impact on small businesses that have a medical cannabis pharmacy license and want the option of selling or transferring the license to another business for a price. Rather than selling or transferring the license, the small business must abandon it and the Department would post an Request for Proposal (RFP) through the Division of Purchasing, accept applications, and award the license to the top applicant. The market price for a medical cannabis pharmacy license in Utah would depend on a lot of factors, such as market size and the location of a facility being purchased. The Department does not have enough information to estimate market price.

Section R380-406-3 establishes general operating standards for medical cannabis pharmacies. One standard is that a medical cannabis pharmacy must protect at all times confidential cardholder data and information stored in the EVS. This means that each medical cannabis pharmacy must purchase the 's designated EVS which is MicroPact's entellitrak software programmed to Utah's specifications. The cost of the software depends on the number of users. It is anticipated that most medical cannabis pharmacies will have five or less concurrent users and therefore purchase the entellitrak Professional Edition which has a one-time perpetual license fee of \$76,302 and an annual support and upgrade subscription fee of \$15,260. The \$15,260 annual support and subscription fee will not increase more than 2% annually unless a compelling business need arises, and with consultation and approval of the Department.

Section R380-406-7 establishes security standards for medical cannabis pharmacies. According to the industry, estimated costs of security equipment (i.e. cameras and monitors, access control, panic button(s), burglary system) range from \$34,000 to \$60,000 for initial purchase and installation. Annual maintenance of this security equipment ranges between \$1,000 and \$1,500 per year. Estimated costs of infrastructure (i.e. installing steel doors, adding walls, bullet proof glass, building vaults) range between \$80,000 and \$100,000 for initial installation. Maintenance costs of these items will be low.

Section R380-406-8 establishes inventory standards for medical cannabis pharmacies. One standard is that pharmacies use the state's designated inventory control system (ICS) to establish a record of each transaction. This means that each medical cannabis pharmacy must purchase the 's designated ICS which is MJ Freeway's Leaf Data Systems software programmed to Utah's specifications. The cost of the ICS is a \$599 per month subscription fee.

D) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an *agency*):

This proposed rule will not result in a fiscal impact to persons other than small businesses, businesses, or local government entities because it does not establish requirements for these persons.

8. Compliance costs for affected persons:

This proposed rule will not result in a fiscal impact to affected persons because it does not establish requirements for these persons.

9. A) Comments by the department head on the fiscal impact this rule may have on businesses:

This proposed rule establishes definitions, general medical cannabis pharmacy operating standards, partial fill standards, medical cannabis pharmacy operating plan requirements, cannabis product transportation standards, cannabis product waste and disposal standards, cannabis product recall standards, duties and requirements of a pharmacist-in-charge, security standards, supervision standards, inventory standards, cannabis product packaging standards, and standards related to closing a medical cannabis pharmacy. The basis for filing this as an emergency rule is that it would cause imminent peril to the public health and safety to delay its implementation because the Department is unable to enforce those critical definitions and standards without the emergency filing of this rule.

The requirements in this rule will fiscally impact a licensed medical cannabis pharmacies option of selling or transferring the license to another business for a price. Rather than selling or transferring the license, the business must abandon it and the Department would post an RFP through the Division of Purchasing, accept applications, and award the license to the top applicant. The market price for a medical cannabis pharmacy license in Utah would depend on a lot of factors, such as market size and the location of a facility being purchased. The Department does not have enough information to estimate market price. Also, each medical cannabis pharmacy must purchase the 's designated EVS which is MicroPact's entellitrak software programmed to Utah's specifications. The cost of the software depends on the number of users. It is anticipated that most medical cannabis pharmacies

will have five or less concurrent users and therefore purchase the entellitrak Professional Edition which has a one-time perpetual license fee of \$76,302 and an annual support and upgrade subscription fee of \$15,260. The \$15,260 annual support and subscription fee will not increase more than 2% annually unless a compelling business need arises, and with consultation and approval of the Department.

Section R380-406-7 establishes security standards for medical cannabis pharmacies. According to the industry, estimated costs of security equipment (i.e. cameras and monitors, access control, panic button(s), burglary system) range from \$34,000 to \$60,000 for initial purchase and installation. Annual maintenance of this security equipment ranges between \$1,000 and \$1,500 per year. Estimated costs of infrastructure (i.e. installing steel doors, adding walls, bullet proof glass, building vaults) range between \$80,000 and \$100,000 for initial installation. Maintenance costs of these items will be low.

Section R380-406-8 establishes inventory standards for medical cannabis pharmacies. One standard is that pharmacies use the state's designated inventory control system (ICS) to establish a record of each transaction. This means that each medical cannabis pharmacy must purchase the 's designated ICS which is MJ Freeway's Leaf Data Systems software programmed to Utah's specifications. The cost of the ICS is a \$599 per month subscription fee.

This rule will fiscally impact only businesses who are awarded a medical cannabis pharmacy licenses through the procurement process.

B) Name and title of department head commenting on the fiscal impacts:

Joseph K. Miner, MD, Executive Director

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Title 26, Chapter 61a	Subsection 26-61a-501(13)	Subsection 26-1-5(1)
Subsection 26-61a-501(12)	Subsection 26-61a-503(3)	Subsection 26-61a-605(5)

Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	04/20/2020
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R380. Health, Administration
R380-406. Medical Cannabis Pharmacy.
R380-406-1. Authority and Purpose.

Pursuant to Sections 26-1-5(1), 26-61a-501(12), 26-61a-501(13), 26-61a-503(3) and 26-61a-605(5), this rule establishes general medical cannabis pharmacy operating standards, partial fill standards, medical cannabis pharmacy operating plan requirements, cannabis product transportation standards, cannabis product waste and disposal standards, cannabis product recall standards, duties and requirements of a pharmacist-in-charge, security standards, supervision standards, inventory standards, cannabis product packaging standards, and standards related to closing a medical cannabis pharmacy.

R380-406-2. Definitions.

As used in this rule:

(1) "Cannabis waste" means cannabis product that is damaged, deteriorated, mislabeled, expired, returned, subject to a recall, or enclosed within containers or packaging that has been opened or breached.

R380-406-3. Medical Cannabis Pharmacy - General Operating Standards.

(1) In addition to general operating standards established in Title 26, Chapter 61a, Part 5, all medical cannabis pharmacies shall comply with the operating standards established in this rule. All medical cannabis pharmacies shall:

(a) be well lit, well ventilated, clean, and sanitary;

(b) maintain a current list of employees working at the medical cannabis pharmacy. The list shall include employee names, Department registration license classification and license numbers, registration expiration dates, and work schedule. The list shall be readily retrievable for inspection by the Department and may be maintained in paper or electronic form.

(c) have a counseling area to allow for confidential patient counseling;

(d) have current and retrievable editions of the following reference publications in print or electronic format and readily available and retrievable to medical cannabis pharmacy personnel:

- (i) Title 26, Chapter 61a, Utah Medical Cannabis Act; and
- (ii) R380-400 through R380-411, Utah Medical Cannabis Act Rule.

(2) A medical cannabis pharmacy shall not distribute medical cannabis or a medical cannabis device to a medical cannabis cardholder unless an employee who is a PMP is physically present and immediately available in the medical cannabis pharmacy.

(3) A medical cannabis pharmacy location shall be open for cardholders to purchase medical cannabis products and medical devices for a minimum of 35 hours a week, except as authorized by the Department.

(4) A medical cannabis pharmacy that closes during normal hours of operation shall implement procedures to notify cardholders when the medical cannabis pharmacy will resume normal hours of operation. Such procedures may include, but are not limited to, telephone system messages and conspicuously posted signs.

(5) All deliveries from a cannabis processing facility or another medical cannabis pharmacy shall be carried out under the direct supervision of a PMP or pharmacy agent who shall be present to accept the delivery. Upon delivery, the medical cannabis or medical cannabis device shall immediately be placed in the limited access area of the medical cannabis pharmacy.

(6) A medical cannabis pharmacy shall protect at all times confidential cardholder data and information stored in the EVS such that access to and use of the data and information is limited to those

individuals and purposes authorized under Title 26, Chapter 61a, Utah Medical Cannabis Act and this rule.

(7) A medical cannabis pharmacy shall not dispense expired, damaged, deteriorated, misbranded, adulterated, or opened medical cannabis.

(8) A medical cannabis pharmacy license cannot be sold or transferred.

R380-406-4. Medical Cannabis Pharmacy -- Operating Plan.

(1) Pursuant to Section 26-61a-301, all medical cannabis pharmacy license applications shall include an operating plan that includes, at a minimum, the following:

(a) any information requested in the application;

(b) all information listed in Section 26-61a-301;

(c) a plan to comply with all applicable operating standards, statutes, and administrative rules including but not limited to:

(i) Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) R380-400 through R380-411, Utah Medical Cannabis Act Rule.

(2) The Department may require that the applicant for a medical cannabis pharmacy license to make changes to its operating plan before issuing a pharmacy license. The applicant shall submit a copy of its updated operating plan with the required changes and receive Department approval of the plan, before the Department awards the license.

(3) Once the Department issues a license, any changes to a medical cannabis pharmacy's operating plan are subject to the approval of the Department. A medical cannabis pharmacy shall submit a notice, in a manner determined by the Department, at least 14 days prior to the date that it plans to implement any changes to its operating plan.

R380-406-5. Medical Cannabis Pharmacy -- Operating Standards -- Pharmacist-In- Charge.

(1) A medical cannabis pharmacy's pharmacist-in-charge (PIC) shall have the responsibility to oversee the medical cannabis pharmacy's operation in compliance with Chapter 26, Title 61a, Utah Medical Cannabis Act and Utah Administrative Rule R380-400 through R380-411, Utah Medical Cannabis Act Rule. The PIC shall generally supervise the medical cannabis pharmacy, though the PIC is not required to be on site during all business hours.

(2) A unique email address shall be established by the PIC or responsible party for the medical cannabis pharmacy to be used for self-audits or medical cannabis pharmacy alerts initiated by the Department. The PIC or responsible party shall notify the Department of the medical cannabis pharmacy's email address in the initial application for licensure.

(3) The duties of the PIC shall include:

(a) ensure that PMPs and pharmacy agents at the medical cannabis pharmacy appropriately interpret and distribute recommendations in a suitable container appropriately labeled for subsequent administration or use by a patient;

(b) ensure that medical cannabis and medical cannabis devices are distributed safely and accurately with correct dosage parameters as recommended;

(c) ensure that medical cannabis and medical cannabis devices are distributed with information and instruction as necessary for proper utilization;

(d) ensure that PMPs and pharmacy agents communicate to the cardholder, at their request, information concerning any

medical cannabis or medical cannabis device distributed to the cardholder;

(e) ensure that a reasonable effort is made to obtain, protect, record, and maintain patient records;

(f) education and training of medical cannabis pharmacy personnel;

(g) establishment of policies for procurement of medical cannabis, medical cannabis devices, and educational material sold at the facility;

(h) distribution and disposal of medical cannabis and medical cannabis devices from the medical cannabis pharmacy;

(i) appropriate storage of all medical cannabis and medical cannabis devices;

(j) maintenance of records of all transactions of the medical cannabis pharmacy necessary to maintain accurate control and accountability for all materials required by applicable state laws;

(k) establishment and maintenance of effective controls against theft or diversion of medical cannabis or medical cannabis devices and records for such products;

(l) legal operation of the medical cannabis pharmacy including meeting all inspection and other requirements of all state laws governing the medical cannabis pharmacies;

(m) implementation of an ongoing quality assurance program that monitors performance of the personnel at the medical cannabis pharmacy;

(n) ensure that the point of sale (POS) is in working order;

(o) ensure that all relevant information is submitted to the state's ICS and EVS in a timely manner;

(p) ensure that all medical cannabis pharmacy personnel have appropriate licensure and registration;

(q) ensure that no medical cannabis pharmacy operates with a ratio of medical cannabis pharmacy medical provider to pharmacy agents that results in, or reasonably would be expected to result in, a reasonable risk to harm to public health, safety, and welfare;

(r) ensure that the PIC assigned to the medical cannabis pharmacy is recorded with the Department and the Department is notified of a PIC change within 30 days of the change; and

(s) ensure, with regard to the unique email address used for self-audits or medical cannabis pharmacy alerts, that:

(i) the medical cannabis pharmacy uses a single email address; and

(ii) the medical cannabis pharmacy notifies the Department, on the form prescribed, of any change in the email address within seven calendar days of the change.

R380-406-6. Medical Cannabis Pharmacy -- Operating Standards -- Supervision.

(1) A medical cannabis pharmacy is always under the full and actual charge of the medical cannabis pharmacy's PIC but it shall be under the direct supervision of at least one supervising PMP who is physically present at all times when a medical cannabis pharmacy is open to the public.

(2) A medical cannabis pharmacy PIC is not required to be in the medical cannabis pharmacy at all times but shall be available for contact within a reasonable period with the supervising PMP.

(3) A medical cannabis pharmacy shall never operate with a supervision ratio of PMP to pharmacy agent that results in, or reasonably would be expected to result in, an unreasonable risk to harm to public health, safety, and welfare.

R380-406-7. Medical Cannabis Pharmacy – Security Standards.

(1) A medical cannabis pharmacy shall comply with security standards established in Section 26-61a-501 and this rule.

(2) A medical cannabis pharmacy shall have security equipment sufficient to deter and prevent unauthorized entrance into the limited access areas of the medical cannabis pharmacy that includes equipment required in this Section.

(3) A medical cannabis pharmacy shall have a system to detect unauthorized intrusion, which may include a signal system interconnected with a radio frequency method, such as cellular or private radio signals, or other mechanical or electronic device.

(4) A medical cannabis pharmacy shall be equipped with a secure lock on any entrances to the medical cannabis pharmacy.

(5) A medical cannabis pharmacy shall have electronic monitoring including:

(a) at least one 19-inch or greater call-up monitor;

(b) a printer capable of immediately producing a clear still photo from any video camera image;

(c) video cameras with a recording resolution of at least 640 x 470 or the equivalent which provide coverage of all entrances to and exits from limited access areas and all entrances to and exits from the building and which are capable of identifying any activity occurring in or adjacent to the building;

(d) all video cameras shall record continuously, 24 hours a day, 7 days a week;

(e) a video camera at each point-of-sale location which allows for the identification of any medical cannabis cardholder;

(f) a method for storing video recordings from the video cameras for at least 45 calendar days;

(g) for all locally stored footage, the surveillance system storage device shall be secured in the facility in a lockbox, cabinet, closet, or secured in another manner to protect from employee tampering or criminal theft;

(h) for footage stored on a remote server, access shall be restricted to protect from employee tampering;

(i) a failure notification system that provides an audible and visual notification of any failure in the electronic monitoring system; and

(j) sufficient battery backup for video cameras and recording equipment to support at least five minutes of recording in the event of a power outage;

(k) a date and time stamp embedded on all video camera recordings which shall be set correctly; and

(l) a panic alarm in the interior of the facility which is a silent security alarm system signal generated by the manual activation of a device intended to signal a robbery in progress.

(6) Security measures implemented by a medical cannabis pharmacy to deter and prevent unauthorized entrance in areas containing products, theft of product, and to ensure the safety of employees and medical cannabis cardholders, shall include the following:

(a) store all medical cannabis and medical cannabis devices in a secure locked limited access area in such a manner as to prevent diversion, theft, and loss;

(b) notwithstanding (5)(a), a medical cannabis pharmacy may display, in secure, locked cases, a sample of each product offered. These display cases shall be transparent. An authorized PMP or pharmacy agent may remove an example of medical cannabis or medical cannabis device from the case and provide it to a cardholder for inspection, provided the patient does not consume or otherwise use the sample. Inside the medical cannabis pharmacy, all

medical cannabis and medical cannabis product shall be stored in a limited access area during non-business hours.

(c) keep all safes, vaults, and any other equipment or areas used for storage, including prior to disposal, of product securely locked and protected from entry, except for the actual time required to remove or replace medical cannabis;

(d) keep all locks and security equipment in good working order and shall test such equipment at least two times per calendar year;

(e) prohibit keys, if any, from being left in the locks, or stored or placed in a location accessible to persons other than specifically authorized personnel;

(f) prohibit accessibility of security measures, such as combination numbers, passwords, or electronic or biometric security systems, to persons other than specifically authorized personnel;

(g) ensure that the outside perimeter of the building is sufficiently lit to facilitate surveillance;

(h) ensure that all medical cannabis is kept out of plain sight and is not visible from a public place, outside of the medical cannabis pharmacy;

(i) develop emergency policies and procedures for securing all product following any instance of diversion, theft, or loss of product, and conduct an assessment to determine whether additional safeguards are necessary;

(j) at a medical cannabis pharmacy where transactions are conducted in cash, establish procedures for safe cash handling and cash transportation to financial institutions to prevent theft, loss and associated risks to the safety of employees, customers and the general public;

(k) while inside the medical cannabis pharmacy, all employees shall wear identification tags or similar forms of identification that clearly identify them to the public, including their position at the medical cannabis pharmacy as a PMP or pharmacy agent; and

(l) prevent individuals from remaining on the premises of the medical cannabis pharmacy if they are not engaging in activity expressly or by necessary implication permitted by Title 26, Chapter 61a, Utah Medical Cannabis Act.

(7) A medical cannabis pharmacy shall include the following areas of security:

(a) public waiting area;

(b) cardholder only area; and

(c) limited access area.

(8) A medical cannabis pharmacy shall allow only medical cannabis cardholders, PMPs, pharmacy agents, authorized vendors, contactors and visitors, to have access to the cardholder area of the medical cannabis pharmacy.

(9) All outside vendors, contractors, and visitors must obtain a visitor identification badge prior to entering the cardholder only or limited access areas of a medical cannabis pharmacy to be worn at all times when on the premises of the medical cannabis pharmacy, and shall be escorted at all times by an employee authorized to enter the medical cannabis pharmacy. The visitor identification badge must be visibly displayed at all times while in the facility. All visitors must be logged in and out, and that log shall be available for inspection by the Department at all times. All visitor identification badges shall be returned to the medical cannabis pharmacy upon exit;

(10) All product inside a medical cannabis pharmacy shall be kept in a limited access area inaccessible to any persons other than a PMP, pharmacy agent, employee of the Department, or an

individual authorized by the medical cannabis pharmacy's PIC. The limited access area shall meet the following standards:

(a) be identified by the posting of a sign that shall be a minimum of 12" x 12" and which states: "Limited Access Area" in lettering no smaller than one inch in height; and

(b) clearly described by the filing of a diagram of the licensed premises, in the form and manner determined by the Department, reflecting walls, partitions, counters, and all areas of entry and exit, vegetation, flowering, storage, disposal, cardholder area, and public waiting area.

(11) Only a PMP or a pharmacy agent employed at the medical cannabis pharmacy shall have access to the medical cannabis pharmacy when the medical cannabis pharmacy is closed to the public.

(12) The medical cannabis pharmacy or parent company shall maintain a record of not less than 5 years of the initials or identification codes that identify each PMP or pharmacy agent by name. The initials or identification codes shall be unique to ensure that each PMP or pharmacy agent can be identified. Identical initials or identification codes shall not be used for different PMPs or pharmacy agents.

R380-406-8. Medical Cannabis Pharmacy -- Operating Standards -- Inventory.

(1) A medical cannabis pharmacy shall be equipped for orderly inventory storage of medical cannabis products and medical cannabis devices in a manner to permit clear identification, separation and easy retrieval of products and an environment necessary to maintain the integrity of product inventory.

(2) A medical cannabis pharmacy shall use the state's ICS to establish a record of each transaction and day's beginning, acquisitions, sales, disposal and ending inventory.

(3) A medical cannabis pharmacy shall input in the ICS information regarding the purchase of medical cannabis or medical cannabis devices immediately after a transaction with a cardholder is closed so reporting of purchases to the ICS across all medical cannabis pharmacies in Utah will be in real-time.

(4) At the close of each business day, a medical cannabis pharmacy must reconcile the medical cannabis and medical cannabis devices at the medical cannabis pharmacy with the medical cannabis pharmacy's inventory.

(5) A medical cannabis pharmacy's supervising PMP shall conduct an audit of a medical cannabis pharmacy's daily inventory at least once a week. A PMP shall conduct annual comprehensive inventories of products at a medical cannabis pharmacy. The PMP conducting the annual inventory shall document the time of the inventory was taken and shall sign and date the inventory with the date the inventory was taken. The signature of the PIC and the date of the inventory shall be documented within 72 hours or three working days of the completed annual inventory.

(a) If the audit identifies a reduction in the amount of medical cannabis in the medical cannabis pharmacy's inventory is not due to documented causes, the medical cannabis pharmacy shall determine where the loss occurred and immediately take and document corrective action. The medical cannabis pharmacy shall immediately inform the Department of the loss by telephone and provide written notice of the loss and the corrective action taken within two business days after first discovery.

(b) If the reduction in the amount of medical cannabis or medical cannabis devices in the inventory is due to criminal activity or suspected criminal activity, the medical cannabis pharmacy shall immediately make a report identifying the circumstances

surrounding reduction to the Department and law enforcement with jurisdiction where the suspected criminal acts occurred.

(c) If the audit identifies an increase in the amount of medical cannabis or medical cannabis devices in the medical cannabis pharmacy's inventory not due to documented causes, the medical cannabis pharmacy shall determine where the increase occurred and take and document corrective action.

(6) All records of each day's beginning inventory, weekly inventory, and comprehensive annual inventory shall be kept for a period of five years at the medical cannabis pharmacy where the medical cannabis and medical marijuana devices are located. Any medical cannabis pharmacy intending to maintain such records at a location other than the medical cannabis pharmacy must first send a written request to the Department. The request shall contain the medical cannabis pharmacy name and license number and the name and address of the alternate location. The Department will send written notification to the medical cannabis pharmacy documenting the approval or denial of the request. A copy of the Department's approval shall be maintained with the other records. Any such alternate location shall be secured and accessible only to authorized medical cannabis pharmacy employees.

(7) A medical cannabis pharmacy shall maintain the documentation required of this rule in a secure, locked location for five years from the date on the document. These records may be kept electronically if the method is approved by the Department and the records are backed-up each business day;

(8) Provide any documentation required to be maintained in this rule to the Department for review upon request.

R380-406-9. Medical Cannabis Pharmacy -- Operating Standards -- Transportation.

(1) Transport of medical cannabis from a medical cannabis pharmacy to another location shall occur only when:

(a) a home delivery medical cannabis pharmacy is delivering shipments of medical cannabis or medical cannabis devices to cardholder's home address;

(b) a medical cannabis pharmacy or cannabis production establishment is transporting medical cannabis or medical cannabis devices from a medical cannabis pharmacy facility to a cannabis production establishment facility or waste disposal location to be disposed of; and

(c) a product recall is initiated and medical cannabis or medical cannabis devices must be returned from a medical cannabis pharmacy to the cannabis production establishment.

(2) Medical cannabis and medical cannabis devices to be returned to the cannabis production establishment shall be:

(a) logged into the ICS;

(b) stored in a locked container with clear and bold lettering: "Return"; and

(c) prepared in compliance with any guidelines and protocols of the cannabis production establishment for collecting, storing and labeling returned items.

(3) A PMP or pharmacy agent accepting a shipment of medical cannabis or medical cannabis devices at a medical cannabis pharmacy facility from a cannabis production establishment shall:

(a) obtain a copy of the transport manifest and safeguard the manifest for recordkeeping;

(b) not delete, void or change information provided on the transport manifest once it arrives at the medical cannabis pharmacy;

(c) ensure that the medical cannabis and medical devices received are as described in the transport manifest and record the amounts received into the ICS;

(d) clearly record on the manifest their unique initials or identification codes and the actual date and time of receipt of the medical cannabis or medical cannabis device;

(e) if differences between the quantity specified in the transport manifest and the quantities received occur, document the changes in the ICS; and

(f) log in the ICS any changes to a medical cannabis product or medical cannabis device that may have occurred while in transport.

R380-406-10. Medical Cannabis Pharmacy -- Operating Standards -- Packaging.

(1) Medical cannabis in the following dosage forms shall be delivered to a medical cannabis pharmacy from a cannabis processing facility or another medical cannabis pharmacy in their final container:

- (a) concentrated oil;
- (b) liquid suspension;
- (c) topical preparation;
- (d) transdermal preparation;
- (e) gelatinous cube;
- (f) sublingual preparation; and
- (g) resin or wax.

(2) Medical cannabis in the following dosage forms may be delivered to a medical cannabis pharmacy from a cannabis processing facility in either a final container or a bulk container to later be separated into a final packaging prior to being dispensed to a cardholder:

- (a) tablet;
- (b) capsule; and
- (c) unprocessed cannabis flower in a blister pack.

R380-406-11. Medical Cannabis Pharmacy -- Operating Standards -- Cannabis Disposal and Waste.

(1) A medical cannabis pharmacy's cannabis waste may be disposed of at either a medical cannabis pharmacy location or a location of a cannabis production establishment licensed by the UDAF.

(2) In addition to complying with standards for cannabis disposal and waste established in Section 26-61a-501, a medical cannabis pharmacy shall ensure compliance with standards established in R68-27-12, Cannabis Waste Disposal. When handling cannabis waste, a medical cannabis pharmacy shall do the following:

- (a) designate a location in the limited access area of the medical cannabis pharmacy where cannabis waste shall be securely locked and stored;
- (b) designate a lockable container or containers that are clearly and boldly labeled with the words "Not for Sale or Use";
- (c) ensure logging of the cannabis product in the ICS at the time of disposal with appropriate information including:
 - (i) a description of and reason for the cannabis product being disposed of;
 - (ii) date of disposal;
 - (iii) method of disposal; and
 - (iv) name and registration identification number of the agent responsible for the disposal.

R380-406-12. Medical Cannabis Pharmacy -- Operating Standards -- Product Recall.

(1) A recall may be initiated by a cannabis production establishment, a medical cannabis pharmacy, the Department, or the UDAF.

(2) A medical cannabis pharmacy's recall plan shall include, at a minimum:

(a) a designation of at least one employee who serves as the recall coordinator;

(b) immediate notification of the Department, UDAF, and the cannabis production establishment from which it obtained the cannabis product in question that shall never be a period to exceed 24 hours upon becoming aware of a complaint about the cannabis product in question;

(c) procedures for identifying and isolating product to prevent or minimize distribution to patients;

(d) procedures to retrieve and destroy product; and

(e) a communications plan to notify those affected by the recall.

(3) The medical cannabis pharmacy shall track the total amount of affected cannabis product and the amount of cannabis product returned to the medical cannabis pharmacy as part of the recall.

(4) The medical cannabis pharmacy shall coordinate the destruction of the cannabis product with the Department and the UDAF and allow the UDAF to oversee the destruction of the final product.

(5) A medical cannabis pharmacy shall notify the Department before initiating a voluntary recall.

R380-406-13. Medical Cannabis Pharmacy -- Partial Filling.

A PMP or pharmacy agent who partially fills a recommendation for a medical cannabis cardholder shall specify in the ICS the following:

- (1) date of partial fill;
- (2) quantity supplied to cardholder;
- (3) quantity remaining of the recommendation partially filled; and
- (4) a brief explanation as to why the recommendation was partially filled.

R380-406-14. Medical Cannabis Pharmacy -- Operating Standards -- Closing a Pharmacy.

(1) At least 14 days prior to the closing of a medical cannabis pharmacy, the pharmacist-in-charge shall comply with the following:

- (a) send written notice to the Department containing the following information:
 - (i) the name, address, and Department issued license number of the medical cannabis pharmacy;
 - (ii) a surrender of the license issued to the medical cannabis pharmacy;
 - (iii) a statement attesting:
 - (A) that a comprehensive inventory has been conducted;and
 - (B) the manner in which the medical cannabis product and medical cannabis devices were transferred or disposed;
 - (C) the anticipated date of closing;
 - (D) the name, address, and Department issued license number of the medical cannabis pharmacy or cannabis production establishment acquiring the medical cannabis and medical cannabis devices from the medical cannabis pharmacy that is closing;
 - (E) the date of transfer of when the medical cannabis product and medical cannabis devices will occur; and
 - (F) the name and address of the medical cannabis pharmacy to which the orders, including all refill information, and patient records, were transferred;

(b) post a closing notice in a conspicuous place at all public entrance doors to the medical cannabis pharmacy which shall contain the following information:

- (i) the date of closing; and
- (ii) the name, address, and telephone number of the medical cannabis pharmacy acquiring the recommendation orders, including all refill information and customer records of the medical cannabis pharmacy.

(2) If the medical cannabis pharmacy closed suddenly due to fire, destruction, natural disaster, death, property seizure, eviction, bankruptcy, or emergency circumstances and the PIC cannot provide notification 14 days prior to the closing, the PIC shall provide notification to the Department of the closing no later than 24 hours after the closing.

(3) If the PIC is not available to comply with the requirements of this section, the owner or legal representative shall be responsible for compliance with the provisions of this section.

(4) On the date of the closing, the PIC shall remove all medical cannabis product and medical cannabis devices from the medical cannabis pharmacy by one or a combination of the following methods:

(a) transport them to a cannabis processing facility for credit or disposal; or

(b) transfer or sell them to a person who is legally entitled to possess drugs, such as another medical cannabis pharmacy in the State of Utah.

(5) The PIC shall transfer all the orders for medical cannabis and medical cannabis devices to a licensed medical cannabis pharmacy in the State of Utah.

(6) The PIC shall move all signs or notify the landlord of the property that it is unlawful to use the word "medical cannabis pharmacy" or any other word or combination of words of the same or similar meaning, or any graphic representation that would mislead, or tend to mislead the public that a medical cannabis pharmacy is located at this address.

KEY: medical cannabis, medical cannabis pharmacy, marijuana
Date of Enactment or Last Substantive Amendment: May 11, 2020
Authorizing, and Implemented or Interpreted Law: 63G-3; 26-1-5(1); 26-61a; 26-61a-501; 26-61-501(12); 26-61a-501(13); 26-61a-503(3); 26-61a-605(5)

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R380-407	Filing No. 52688

Agency Information

1. Department:	Health	
Agency:	Administration	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 141000	
City, state, zip:	Salt Lake City, UT 84114-1000	
Contact person(s):		
Name:	Phone:	Email:

Richard Oborn	801-538-6504	medicalcannabis@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R380-407. Medical Cannabis Pharmacy Agent
3. Effective Date:
05/11/2020
4. Purpose of the new rule or reason for the change:
Subsection 26-61a-401(5) of the Utah Medical Cannabis Act requires that the Utah Department of Health (Department) establish rules related to medical cannabis pharmacy agents.
5. Summary of the new rule or change:
This rule filing establishes medical cannabis pharmacy agent duties and responsibilities, application procedures, renewal application procedures, and certification standards. (EDITOR'S NOTE: A corresponding proposed Rule R380-407 is under ID No. 52615 that was published in the April 15, 2020, issue of the Bulletin.)
6. Regular rulemaking would:
X cause an imminent peril to the public health, safety, or welfare;
cause an imminent budget reduction because of budget restraints or federal requirements; or
place the agency in violation of federal or state law.
Specific reason and justification:
The basis for filing this as an emergency rule is that it would cause imminent peril to the public health and safety to delay its implementation. This rule establishes critical definitions and standards related to pharmacy agent duties and responsibilities, application procedures, renewal application procedures, and certification standards and the Department is unable to enforce those critical definitions and standards without the emergency filing of this rule.

Fiscal Information

7. Aggregate anticipated cost or savings to:
A) State budget:
Under Section R380-407-5, minimal cost impact on the state budget comes as a result of the Department adopting a rule that requires that the certification standard for initial and renewal of registration of a pharmacy agent will be successful completion of an online course developed by the Department. The extent of this course will be a review of information related to laws applicable to practice as a

pharmacy agent and an electronic acknowledgement of having understood the laws.

B) Local governments:

This proposed rule will not result in a fiscal impact to local governments because this rule does not establish requirements for enforcement by local agencies.

C) Small businesses ("small business" means a business employing 1-49 persons):

Under Section R380-407-5, minimal savings impact on medical cannabis pharmacies comes as a result of the Department adopting a rule that requires that the certification standard for initial and renewal of registration of a pharmacy agent will be successful completion of an online course developed by the Department. The extent of this course will be a review of information related to laws applicable to practice as a pharmacy agent and an electronic acknowledgement of having understood the laws. Had the Department required that pharmacy agent complete a course provided by a private vendor, the cost of the courses would likely be paid by medical cannabis pharmacies. The cost of those courses would likely be between \$150 and \$300 during every two year renewal cycle.

D) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

Under Section R380-407-5, minimal savings impact on medical cannabis pharmacy agents comes as a result of the Department adopting a rule that requires that the certification standard for initial and renewal of registration of a pharmacy agent will be successful completion of an online course developed by the Department. The extent of this course will be a review of information related to laws applicable to practice as a pharmacy agent and an electronic acknowledgement of having understood the laws. Had the Department required that pharmacy agent complete a course provided by a private vendor, applicants for agent registration would have to pay the cost of those courses which would likely be between \$150 and \$300 during every two-year renewal cycle.

8. Compliance costs for affected persons:

Under Section R380-407-5, minimal savings impact on medical cannabis pharmacy agents comes as a result of the Department adopting a rule that requires that the certification standard for initial and renewal of registration of a pharmacy agent will be successful completion of an online course developed by the Department. The extent of this course will be a review of information related to laws applicable to practice as a pharmacy agent and an electronic acknowledgement of having understood the laws. Had the Department required that pharmacy agent complete a course provided by a private vendor,

applicants for agent registration would have to pay the cost of those courses which would likely be between \$150 and \$300 during every two-year renewal cycle.

9. A) Comments by the department head on the fiscal impact this rule may have on businesses:

This rule filing establishes medical cannabis pharmacy agent duties and responsibilities, application procedures, renewal application procedures, and certification standards. The basis for filing this as an emergency rule is that it would cause imminent peril to the public health and safety to delay its implementation because the Department is unable to enforce those critical definitions and standards without the emergency filing of this rule.

Under Section R380-407-5, minimal savings impact on medical cannabis pharmacies and pharmacy agents come as a result of the Department adopting a rule that requires that the certification standard for initial and renewal of registration of a pharmacy agent will be successful completion of an online course developed by the Department. The extent of this course will be a review of information related to laws applicable to practice as a pharmacy agent and an electronic acknowledgement of having understood the laws. Had the Department required that pharmacy agent complete a course provided by a private vendor, the cost of the courses would likely be paid by medical cannabis pharmacies. The cost of those courses would likely be between \$150 and \$300 during every two-year renewal cycle.

This rule will fiscally impact any business that provides or pays for the coursework and applications for medical professionals to become qualified medical providers.

B) Name and title of department head commenting on the fiscal impacts:

Joseph K. Miner, MD, Executive Director

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Title 26, Chapter 61a	Title 63G, Chapter 3	Subsection 26-1-5(1)
Subsection 26-61a-401(5)		

Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	04/20/2020
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R380. Health, Administration
R380-407. Medical Cannabis Pharmacy Agent.
R380-407-1. Authority and Purpose.

Pursuant to Subections 26-1-5(1) and 26-61a-401(5), this rule establishes medical cannabis pharmacy agent duties and responsibilities, application procedures, renewal application procedures, and certification standards.

R380-407-2. Medical Cannabis Pharmacy Agent -- Duties and Responsibilities.

- (1) A pharmacy agent may perform the following duties:
 - (a) within the dosage parameters specified by a QMP or PMP, assist the cardholder with understanding available products, proper use of a medical device, medical cannabis strains and methods of consumption or application;
 - (b) using the ICS, verify the status of an individual's medical cannabis card and dosage parameters in a patient recommendation;
 - (c) enter and retrieve information from the ICS;
 - (d) authorize entry of a cardholder into the cardholder counseling area;
 - (e) take refill orders from a QMP;
 - (f) provide pricing and product information;
 - (g) accurately process cardholder payments including issuance of receipts, refunds, credits, and cash;
 - (h) prepare labels;
 - (i) retrieve medical cannabis and medical cannabis devices from inventory;
 - (j) accept new medical cannabis or medical cannabis device orders left on voicemail for a PMP to review;
 - (k) verbally offer to a cardholder the opportunity for counseling with a PMP regarding medical cannabis or a medical cannabis device;
 - (l) assist with dispensing of product to cardholders;
 - (m) screen calls for a PMP;
 - (n) preparing inventories of medical cannabis and medical cannabis devices;
 - (o) transport medical cannabis or medical cannabis devices; and
 - (p) assist with maintaining a safe, clean, and professional environment.
- (2) A pharmacy agent shall not perform the following duties:
 - (a) receive dosage parameters for a patient's recommendation over the phone or in person;
 - (b) access patient information in the EVS;
 - (c) view medical treatment and medication history in the EVS; and
 - (d) determine or modify dosage parameters in a patient's recommendation; and
 - (e) provide counseling or consultation regarding a patient's medical condition or medical treatment.

R380-407-3. Medical Cannabis Pharmacy Agent -- Application Procedures.

- (1) The application procedures established in this section shall govern all applications for initial issuance of a pharmacy agent registration card under Title 26, Chapter 61a.
- (2) Each pharmacy agent card applicant shall apply upon forms available from the Department.
- (3) The Department may issue a card to an applicant who submits a complete application and the Department determines that the applicant meets the card requirements.

(4) The Department shall provide a written notice of denial to an applicant who submits a complete application if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide to the applicant a written notice of incomplete application that the application will be closed unless the applicant corrects the deficiencies within the time period specified in the notice and otherwise meets all card requirements.

(6) Written notices of denial and incomplete application shall be sent to the applicant's last email address shown in the Department's EVS database.

(7) Each applicant is required to maintain a current email address with the Department. Notice sent to the last email address on file with the Department constitutes legal notice.

R380-407-4. Medical Cannabis Pharmacy Agent - Renewal Application Procedures.

(1) Renewal application procedures established in the rule shall apply to applicants applying for renewal of a pharmacy agent registration card under Title 26, Chapter 61a.

(2) Each card applicant shall apply upon renewal application forms available from the Department.

(3) The Department shall issue a card to an applicant who submits a complete renewal application if the Department determines that the applicant meets the card requirements.

(4) The Department shall provide a written notice of denial to an applicant who submits a complete renewal application if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide a written notice of incomplete application to an applicant who submits an incomplete application, which notice shall advise the applicant that the renewal application is incomplete and that the renewal application will be closed, unless the applicant corrects the deficiencies within the time period specified in the notice and otherwise meets all card requirements.

(6) The Department shall send a renewal notice to each cardholder at least 60 days prior to the expiration date shown on the cardholder's card. The notice shall include directions for the cardholder to renew the card via the Department's website.

(7) Renewal notices shall be sent by email addressed to the cardholder's last email shown in the Department's EVS database.

(8) Each cardholder is required to maintain a current email address with the Department. Emailing to the last email address furnished to the Department constitutes legal notice.

(9) Renewal notices shall advise each cardholder that a card automatically expires on the expiration date and is no longer valid if it is not renewed prior to the expiration date.

(10) If an individual's pharmacy agent registration card expires, the individual may submit a card renewal application at any time regardless of the length of time passed since the expiration of the card.

R380-407-5. Medical Cannabis Pharmacy Agent -- Certification Standard.

The certification standard for applicants for initial and renewal registration of a pharmacy agent card will be successful completion of an online course developed by the Department.

KEY: medial cannabis, medical cannabis pharmacy, medical cannabis pharmacy agent, marijuana

Date of Enactment or Last Substantive Amendment: May 11, 2020
Authorizing, and Implemented or Interpreted Law: 63G-3; 26-1-5(1); 26-61a; 26-61a-401(5)

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R380-408	Filing No. 52689

Agency Information

1. Department:	Health	
Agency:	Administration	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 141000	
City, state, zip:	Salt Lake City, UT 84114-1000	
Contact person(s):		
Name:	Phone:	Email:
Richard Oborn	801-538-6504	medicalcannabis@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:	
R380-408. Home Delivery and Courier	
3. Effective Date:	
05/11/2020	
4. Purpose of the new rule or reason for the change:	
Section 26-61a-606, Utah Medical Cannabis Act requires the Utah Department of Health (Department) to establish rules related to medical cannabis couriers and medical cannabis courier agents.	
5. Summary of the new rule or change:	
This proposed rule establishes the requirements for home delivery operating standards, home delivery agent operating standards, courier agent application procedures, and courier agent renewal application procedures and courier agent certification standards. (EDITOR'S NOTE: A corresponding proposed Rule R380-408 is under ID No. 52616 that was published in the April 15, 2020, issue of the Bulletin.)	
6. Regular rulemaking would:	
X	cause an imminent peril to the public health, safety, or welfare;
	cause an imminent budget reduction because of budget restraints or federal requirements; or

place the agency in violation of federal or state law.
Specific reason and justification:
The basis for filing this as an emergency rule is that it would cause imminent peril to the public health and safety to delay its implementation. This rule establishes critical standards related to home delivery of medical cannabis and courier agents and the Department is unable to enforce those critical definitions and standards without the emergency filing of this rule.

Fiscal Information

7. Aggregate anticipated cost or savings to:
A) State budget:
This proposed rule will not result in a fiscal impact to the state budget because this rule does not establish requirements for the Department.
B) Local governments:
This proposed rule will not result in a fiscal impact to local governments because this rule does not establish requirements for enforcement by local agencies.
C) Small businesses ("small business" means a business employing 1-49 persons):
Section R380-408-2 establishes operating standards for medical cannabis home delivery services. The cost impact to a home delivery medical cannabis pharmacy or a medical cannabis courier equipping their vehicle with a GPS tracking system that provides real time tracking to off-site locations (i.e. the pharmacy) ranges from \$350 to \$1,100 per year. The estimated cost impact to a home delivery medical cannabis pharmacy or a medical cannabis courier equipping their vehicle with an alarm system ranges from \$98 to \$400 per vehicle.
D) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):
This proposed rule will not result in a fiscal impact to the persons other than small businesses, businesses, or local government entities because this rule does not establish requirements for enforcement by these persons.
8. Compliance costs for affected persons:
This proposed rule will not result in a fiscal impact to the affected persons because this rule does not establish requirements for enforcement by these persons.
9. A) Comments by the department head on the fiscal impact this rule may have on businesses:
This proposed rule establishes the requirements for home delivery operating standards, home delivery agent operating standards, courier agent application procedures,

and courier agent renewal application procedures and courier agent certification standards. The basis for filing this as an emergency rule is that it would cause imminent peril to the public health and safety to delay its implementation because the Department is unable to enforce those standards and procedures without the emergency filing of this rule.

According to the industry, estimated costs of security equipment (i.e. cameras and monitors, access control, panic button(s), burglary system) range from \$34,000 to \$60,000 for initial purchase and installation. Annual maintenance of this security equipment ranges between \$1,000 and \$1,500 per year. Estimated costs of infrastructure (i.e. installing steel doors, adding walls, bullet proof glass, building vaults) range between \$80,000 and \$100,000 for initial installation. Maintenance costs of these items will be low. The impact of the operating standards set by the rule to a home delivery medical cannabis pharmacy or a medical cannabis courier equipping their vehicle with a GPS tracking system that provides real time tracking to off-site locations (i.e. the pharmacy) ranges from \$350 to \$1,100 per year. The estimated cost impact to a home delivery medical cannabis pharmacy or a medical cannabis courier equipping their vehicle with an alarm system ranges from \$98 to \$400 per vehicle.

This rule will fiscally impact only businesses that are authorized to operate home delivery of medical cannabis products.

B) Name and title of department head commenting on the fiscal impacts:

Joseph K. Miner, MD, Executive Director

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Title 26, Chapter 61a	Section 26-41a-605	Subsection 26-41a-604(14)
Section 26-61a-606	Section 26-41a-606	Subsection 26-1-5(1)
Section 26-41a-607		

Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	04/20/2020
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**R380. Health, Administration.
R380-408. Home Delivery and Courier.
R380-408-1. Authority and Purpose.**

Pursuant to Sections 26-1-5(1) and 26-61a-606, this rule establishes home delivery operating standards, home delivery agent

operating standards, courier agent application procedures, courier agent renewal application procedures and courier agent certification standards.

R380-408-2. Home Delivery Service -- Operating Standards.

(1) In addition to general operating standards established in Sections 26-41a-605 through 607, home delivery medical cannabis pharmacies and couriers shall comply with the operating standards established in this rule. The following operating standards apply to home delivery medical cannabis pharmacies and couriers:

(a) maintain an updated written operating plan for the home delivery service describing plans to comply with standards established in this section and meeting the requirements of Subsection 26-61a-604 (14);

(b) ensure accurate record keeping of delivery information in the ICS;

(c) maintain a record of not less than 5 years of the initials or identification codes that identify each pharmacy agent or courier agent by name. The initials or identification codes shall be unique to ensure that each pharmacy agent or courier agent can be identified. Identical initials or identification codes shall not be used for different pharmacy agents or courier agents;

(d) lock medical cannabis and medical cannabis devices that are transported in a fully enclosed box, container, or cage that is secured inside a delivery vehicle that ensures appropriate storage temperatures throughout the delivery process to maintain the integrity of the product;

(e) maintain a current list, either paper or electronic, of employees working for the home delivery medical cannabis pharmacy or courier who make home deliveries that shall include employee names, Department registration license classification and license numbers, and registration expiration dates;

(f) upon request, provide the Department with information regarding any vehicle used for the home delivery service, including the vehicle's make, model, color, vehicle identification number, license plate number, insurance number, and Division of Motor Vehicle registration number;

(g) ensure that a manifest is not modified in any way after a pharmacy agent or courier agent departs from a home delivery medical cannabis pharmacy facility with a shipment appearing on the manifest;

(h) ensure that no persons other than a pharmacy agent or courier agent is in a delivery vehicle during a delivery or during the time medical cannabis or medical cannabis devices are in the vehicle; and

(i) ensure that trip log documentation showing a specific route of delivery exists for a route driven by a pharmacy agent or courier agent on a specific day is immediately available for review by the Department, upon request.

(2) When delivering medical cannabis and medical cannabis devices to medical cannabis cardholder homes, a pharmacy agent or courier agent shall not:

(a) drop off medical cannabis or medical cannabis devices with anyone other than a medical cannabis cardholder;

b) perform a home delivery before 6am or after 10pm;

(c) leave medical cannabis or medical cannabis devices unattended in a delivery vehicle for more than one hour;

(d) make changes in dosage or quantity at the request of the medical cannabis cardholder during a delivery; and

(e) consume medical cannabis while delivering medical cannabis.

(3) When delivering medical cannabis and medical cannabis devices, pharmacy agents and courier agents employed by the home delivery medical cannabis pharmacy or courier shall:

(a) wear identification tags or similar forms of identification that clearly identify them to medical cannabis cardholders, including their position as a pharmacy agent or courier agent; and

(b) provide each cardholder receiving a shipment printed material that includes a home delivery medical cannabis pharmacy's contact information and hours when a PMP at the home delivery medical cannabis pharmacy is available for counseling over the phone.

(4) Vehicles used for the purpose of home delivery must meet the following standards:

(a) no marking or other indications on the exterior that may indicate what is being transported;

(b) cannot be an unmanned vehicle;

(c) have an active alarm system;

(d) have a global positioning system (GPS) monitoring device that is:

(i) not a mobile device that is easily removable;

(ii) attached to the vehicle at all times that the vehicle contains medical cannabis or medical cannabis devices; and

(iii) capable of storing and transmitting GPS data so it can be monitored by the home delivery medical cannabis pharmacy during transport of medical cannabis and medical cannabis devices;

(e) be subject to inspection by the Department at any time; and

(f) not transport medical cannabis or medical cannabis devices beyond what appears on a manifest or what a pharmacy agent or courier has picked up from a medical cannabis cardholder to be returned to the home delivery medical cannabis pharmacy.

(5) In the case of medical cannabis or a medical cannabis device that goes missing during the course of a home delivery route:

(a) the pharmacy agent or courier agent shall notify the home delivery medical cannabis pharmacy's supervising PMP within 24 hours of when the pharmacy agent or courier agent first became aware of the missing product; and

(b) information regarding missing products shall be reported by the home delivery medical cannabis pharmacy to the Department and local law enforcement and logged in to the ICS.

(6) A courier cannot store medical cannabis or medical cannabis devices at its facility. All medical cannabis and medical cannabis devices delivered by the courier must be picked up from a home delivery medical cannabis pharmacy facility and either delivered to the medical cannabis cardholder's residence or returned to the home delivery medical cannabis pharmacy facility.

R380-408-3. Home Delivery Agent -- Operating Standards.

(1) In addition to operating standards established in Sections 26-41a-605 through 26-61a-607, pharmacy agents and courier agents shall comply with the operating standards established in this rule. The following operating standards apply to pharmacy agents and courier agents:

(a) ensure accurate record keeping of delivery information in the ICS;

(b) ensure locking of medical cannabis and medical cannabis devices that are transported in a fully enclosed box, container, or cage that is secured inside a delivery vehicle that ensures appropriate storage temperatures throughout the delivery process to maintain the integrity of the product;

(c) ensure that a manifest is not modified in any way after they depart from a home delivery medical cannabis pharmacy facility with the shipments appearing on the manifest; and

(d) ensure that no persons other than a pharmacy agent or courier agent is in a delivery vehicle during a delivery or during the time medical cannabis or medical cannabis devices are in the vehicle.

(2) When delivering medical cannabis and medical cannabis devices to cardholder homes, a pharmacy agent or courier agent shall not:

(a) drop off medical cannabis or medical cannabis device with anyone other than a medical cannabis cardholder;

(b) perform a home delivery before 6am or after 10pm;

(c) leave medical cannabis or a medical cannabis device unattended in a delivery vehicle for more than 60 minutes;

(d) make changes in dosage or quantity on the request of the cardholder during a delivery; and

(e) consume medical cannabis while delivering medical cannabis; and

(f) transport medical cannabis or medical cannabis devices beyond what appears on a manifest.

(3) When delivering medical cannabis and medical cannabis devices, pharmacy agents and courier agents shall:

(a) wear identification tags or similar forms of identification that clearly identify them to cardholders, including their position as a pharmacy agent or courier agent; and

(b) provide each cardholder printed material that includes a home delivery medical cannabis pharmacy's contact information and hours for counseling over the phone with a PMP.

(4) In the case of medical cannabis or a medical cannabis device that goes missing during the course of a home delivery route, the pharmacy agent or courier agent shall notify the home delivery medical cannabis pharmacy's supervising PMP within 24 hours of when the medical cannabis pharmacy agent first became aware of the missing product.

R380-408-4. Medical Cannabis Courier Agent -- Application Procedures.

(1) The application procedures established in this section shall govern applications for initial issuance of a courier agent registration card under Title 26, Chapter 61a.

(2) Each card applicant shall apply upon forms available in the EVS from the Department.

(3) The Department may issue a card only if the applicant meets the card requirements established under Title 26, Chapter 61a and by Department rule.

(4) The Department shall provide a written notice of denial to an applicant who submits a complete application if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide to the applicant a written notice of incomplete application that the application will be closed unless the applicant corrects the deficiencies within the time period specified in the notice and otherwise meets all card requirements.

(6) Written notices of denial and incomplete application shall be sent to the applicant's last email address shown in the Department's EVS database unless the applicant has requested to be notified by regular mail.

(7) Each applicant is required to maintain a current email and mailing address with the Department. Notice to the last email address on file with the Department constitutes legal notice unless the applicant has requested to be notified by regular mail.

R380-408-5. Medical Cannabis Courier Agent - Renewal Application Procedures.

(1) Renewal application procedures established in this section shall govern applications to renew a courier agent registration card under Title 26, Chapter 61a.

(2) Each card applicant shall apply upon renewal application forms available from the Department.

(3) The Department shall issue a card to an applicant who submits a complete renewal application if the Department determines that the applicant meets the card requirements.

(4) The Department shall provide a written notice of denial to an applicant who submits a complete renewal application if the Department determines that the applicant does not meet the card requirements.

(5) The Department shall provide to the applicant a written notice of incomplete application that the renewal application will be closed unless the applicant corrects the deficiencies within the time period specified in the notice and otherwise meets all card requirements.

(6) The Department shall send a renewal notice to each cardholder at least 60 days prior to the expiration date shown on the cardholder's card. The notice shall include instructions to renew the card via the Department's website.

(7) Renewal notices shall be sent to the cardholder's last email shown in the Department's EVS database unless the cardholder has requested to be notified by regular mail.

(8) Each cardholder is required to maintain a current email address with the Department. Emailing to the last email address furnished to the Department constitutes legal notice unless the cardholder has requested to be notified by regular mail.

(9) It shall be the responsibility of each cardholder to maintain a current email address and mailing address with the Department.

(10) Renewal notices shall advise each cardholder that a card automatically expires on the expiration date and is no longer valid.

(11) If an individual's courier agent registration card expires, the individual may submit a card renewal application at any time regardless of the length of time passed since the expiration of the card.

R380-408-6. Medical Cannabis Courier Agent -- Certification Standard.

The certification standard for applicants for initial and renewal registration of a courier agent card will be successful completion of an online course developed by the Department.

KEY: medical cannabis, medical cannabis courier agent, medical cannabis home delivery, marijuana

Date of Enactment or Last Substantive Amendment: May 11, 2020
Authorizing, and Implemented or Interpreted Law: 63G-3; 26-1-5(1); 26-61a; 26-61a-606; 26-61a-604(14); 26-61a-607

NOTICE OF EMERGENCY (120-DAY) RULE

Utah Admin. Code Ref (R no.):	R380-409	Filing No. 52690
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Agency Information

1. Department:	Health
Agency:	Administration
Building:	Cannon Health Building

Street address:	288 N 1460 W	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 141000	
City, state, zip:	Salt Lake City, UT 84114-1000	
Contact person(s):		
Name:	Phone:	Email:
Richard Oborn	801-538-6504	medicalcannabis@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R380-409. State Central Patient Portal
3. Effective Date:
05/11/2020
4. Purpose of the new rule or reason for the change:
Section 26-61a-601 of the Utah Medical Cannabis Act requires the Utah Department of Health (Department) to establish rules related to the state central patient portal.
5. Summary of the new rule or change:
This rule filing establishes standards related to the state central patient portal's facilitation of an electronic medical cannabis order to a home delivery medical cannabis pharmacy. (EDITOR'S NOTE: A corresponding proposed Rule R380-409 is under ID No. 52617 that was published in the May 1, 2020, issue of the Bulletin.)
6. Regular rulemaking would:
<input checked="" type="checkbox"/> cause an imminent peril to the public health, safety, or welfare;
<input type="checkbox"/> cause an imminent budget reduction because of budget restraints or federal requirements; or
<input type="checkbox"/> place the agency in violation of federal or state law.
Specific reason and justification:
The basis for filing this as an emergency rule is to formally notify individuals interested in applying to obtain 1 of 14 medical cannabis pharmacy licenses of a rule that will impact them. Individuals had until Monday, December 2, 2019, to apply for medical cannabis pharmacy licenses via the Request for Proposal (RFP) process administered by the Division of Purchasing. Filing this as an emergency rule provides applicants sufficient time to review this proposed rule and incorporate essential information about this rule in their responses to the RFP. Using the regular rulemaking process would delay the licensing of medical cannabis pharmacies, placing the Department in danger of not meeting statutory deadlines established in the Utah Medical Cannabis Act.

Fiscal Information

7. Aggregate anticipated cost or savings to:

A) State budget:

Section R380-409-2 is written such that the Department's cost of facilitating electronic medical cannabis orders will be minimal because it will be limited to including links to individual websites established by home delivery medical cannabis pharmacies where cardholders may view available inventory and order medical cannabis products and medical cannabis devices, or educational material related to the use of medical cannabis. The Department will not be responsible for setting up a website where cardholders will view, order, and make electronic payment for product ordered online. Each home delivery medical cannabis pharmacy is responsible to set up their own website for online ordering.

B) Local governments:

This proposed rule will not result in a fiscal impact to local governments because this rule does not establish requirements for enforcement by local agencies.

C) Small businesses ("small business" means a business employing 1-49 persons):

Section R380-409-2 states that the state central patient portal website will include links to individual websites established by home delivery medical cannabis pharmacies where cardholders may view available inventory and order medical cannabis products and medical cannabis devices, or educational material related to the use of medical cannabis. This means that each home delivery medical cannabis pharmacy is responsible to set up a website for online ordering. The cost impact to a home delivery medical cannabis pharmacy for setting up an online ordering website is estimated to be between \$50,000 and \$500,000 depending on the platform and requirements.

D) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an *agency*):

This proposed rule will not result in a fiscal impact to persons other than small businesses, businesses, or local government entities because this rule does not establish requirements for these persons.

8. Compliance costs for affected persons:

This proposed rule will not result in a fiscal impact to affected persons because this rule does not establish requirements for these persons.

9. A) Comments by the department head on the fiscal impact this rule may have on businesses:

This rule filing establishes standards related to the state central patient portal's facilitation of an electronic medical

cannabis order to a home delivery medical cannabis pharmacy. It is necessary to use the emergency rulemaking process in order to use these rules in the current RFP process to issue licenses for medical cannabis pharmacies within the statutory time frame set out in the Utah Medical Cannabis Act.

Section R380-409-2 states that the state central patient portal website will include links to individual websites established by home delivery medical cannabis pharmacies where cardholders may view available inventory and order medical cannabis products and medical cannabis devices, or educational material related to the use of medical cannabis. This means that each home delivery medical cannabis pharmacy is responsible to set up a website for online ordering. The cost impact to a home delivery medical cannabis pharmacy for setting up an online ordering website is estimated to be between \$50,000 and \$500,000 depending on the platform and requirements.

It has been determined that this rule fiscally impact on a medical cannabis pharmacy businesses that provide a home delivery service.

B) Name and title of department head commenting on the fiscal impacts:

Joseph K. Miner, MD, Executive Director

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Subsection
26-61a-601(3)

Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	04/20/2020
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R380. Health, Administration.

R380-409. State Central Patient Portal.

R380-409-1. Authority and Purpose.

Pursuant to Subsection 26-61a-601(3), this rule establishes standards related to the state central patient portal's facilitation of an electronic medical cannabis order to a home delivery medical cannabis pharmacy.

R380-409-2. Facilitation of Online Orders.

To facilitate an online order, the state central patient portal website shall include links to individual websites established by home delivery medical cannabis pharmacies where cardholders may view available inventory and order medical cannabis products and medical cannabis devices, or educational material related to the use of medical cannabis.

KEY: medical cannabis, medical cannabis patient portal, medical cannabis online orders, marijuana
Date of Enactment or Last Substantive Amendment: May 11, 2020
Authorizing, and Implemented or Interpreted Law: 63G-3; 26-1-5(1); 26-61a; 26-61a-601

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R380-411	Filing No. 52691

Agency Information

1. Department:	Health	
Agency:	Administration	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 141000	
City, state, zip:	Salt Lake City, UT 84114-1000	
Contact person(s):		
Name:	Phone:	Email:
Richard Oborn	801-538-6504	medicalcannabis@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R380-411. Administrative Hearing Procedures
3. Effective Date:
05/11/2020
4. Purpose of the new rule or reason for the change:
Sections 26-1-24 and 63G-4-102 authorize the Utah Department of Health (Department) to establish rules related to administrative adjudicative procedures for actions taken by the Department pursuant to the Utah Medical Cannabis Act.
5. Summary of the new rule or change:
This rule filing defines terms and establishes procedures related to administrative adjudicative proceedings. (EDITOR'S NOTE: A corresponding proposed Rule R380-411 is under ID No. 52619 that was published in the May 1, 2020, issue of the Bulletin.)
6. Regular rulemaking would:
cause an imminent peril to the public health, safety, or welfare;
cause an imminent budget reduction because of budget restraints or federal requirements; or

X	place the agency in violation of federal or state law.
Specific reason and justification:	
The basis for filing this as an emergency rule is to formally notify individuals desiring to request agency review of an action taken by the Center for Medical Cannabis of the rules applicable to those requests. Using the regular rulemaking process would cause the Department to delay some actions it plans to take, and the delay would put the Department in violation of state law.	

Fiscal Information

7. Aggregate anticipated cost or savings to:
A) State budget:
This proposed rule will not result in a fiscal impact to the state budget because this rule does not establish requirements for the Department.
B) Local governments:
This proposed rule will not result in a fiscal impact to local governments because this rule does not establish requirements for enforcement by local agencies.
C) Small businesses ("small business" means a business employing 1-49 persons):
This proposed rule will not result in a fiscal impact to small businesses because this rule does not establish requirements for small businesses.
D) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):
This proposed rule will not result in a fiscal impact to persons other than small businesses, businesses, or local government entities because this rule does not establish requirements for these persons.
8. Compliance costs for affected persons:
This proposed rule will not result in a fiscal impact to affected persons because this rule does not establish requirements for these persons.
9. A) Comments by the department head on the fiscal impact this rule may have on businesses:
This rule establishes defines terms and establishes procedures related to administrative adjudicative proceedings. The basis for filing this as an emergency rule is to formally notify individuals desiring to request agency review of an action taken by the Center for Medical Cannabis of the rules applicable to those requests. Using the regular rulemaking process would cause the Department to delay some actions it plans to take, and the delay would put the Department in violation of state law. It

has been determined that this rule will not have a fiscal impact on businesses.

The Executive Director of the Department of Health, Joseph Miner, MD, has reviewed and approved this fiscal analysis.

B) Name and title of department head commenting on the fiscal impacts:

Joseph K. Miner, MD, Executive Director

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Title 26, Chapter 61a	Section 26-1-24	Section 63G-4-102
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Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	04/20/2020
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R380. Health, Administration

R380-411. Administrative Hearing Procedures.

R380-411-1. Introduction and Authority.

(1) This rule establishes the administrative hearing procedures for the Center for Medical Cannabis.

(2) This rule is authorized by Section 26-1-24 and Section 63G-4-102.

R380-411-2. Definitions.

(1) The definitions in Section R380-400-2 and Section 63G-4-103 apply to this rule.

(2) The following definitions also apply:

(a) "Action" means a denial, termination, suspension, or reduction of a license, or card, or issued, pursuant to Title 26, Chapter 61a, Utah Medical Cannabis Act; or the imposition of a penalty, or fine, authorized under Title 26, Chapter 61a, Utah Medical Cannabis Act. An action does not include an issuance of a license to operate a medical cannabis pharmacy, pursuant to Title 63G, Chapter 6a, Utah Procurement Code.

(b) "Agency" means the Center for Medical Cannabis within the Utah Department of Health.

(c) "Aggrieved person" means any person affected by the agency's action.

(d) "Applicant" means any person who has applied for a medical cannabis card or a registration, or license, other than a medical cannabis pharmacy license, pursuant to Title 26, Chapter 61a, Utah Medical Cannabis Act.

(e) "Ex Parte" communication means direct or indirect communication in connection with an issue of fact, or law, between the hearing officer and one party only.

(f) "Presiding Officer" means the agency head, or designee, as approved by the Executive Director; to conduct administrative a hearing pursuant to this rule.

(g) "Medical record" means a record that contains medical data submitted by an applicant.

(h) "Order" means a ruling by a hearing officer that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more specific persons.

R380-411-3. Administrative Adjudicative Procedures.

(1) Except as provided in this rule, or as otherwise designated by rule, or statute, or converted, pursuant to Subsection 63G-4-202(3), all adjudicative proceedings conducted pursuant to this rule are informal proceedings.

(2) The agency head shall serve as the presiding officer for an informal hearing, except that the agency head may designate a presiding officer, as approved by the executive director.

(3) Closure of an application submitted to the agency, due to the applicant's failure to complete the application, or to provide required information, is not an action under this rule.

(4) Any provision of this rule does not apply to an action that is governed by another statute that conflicts with the procedures in this rule.

R380-411-4. Commencement of Proceedings, Response.

(1) If a person is aggrieved by an action of the agency, the person may file a request for agency action and hearing within the shortest of 30 calendar days, of either receiving the initial agency determination, or the agency's mailing, or electronic notification via email, of the initial agency determination. The person shall request an agency action, and hearing, by submitting the request on a form created by the Center.

(2) If the informal adjudicative proceeding is commenced by a notice of agency action, each party in the action, except the Center, shall file a response to the allegations contained in the notice of agency action, and state whether a hearing is requested.

(3) Pursuant to this rule and Section 63G-4-201, if the informal adjudicative proceeding is commenced by a request for agency action, the Agency must consider the request, and grant or deny it, or set the request for further proceedings.

(4) If a medical issue is in dispute, each request shall include supporting medical documentation. The Agency shall schedule a hearing only when it receives sufficient medical records, and may dismiss a request for agency action, or strike the party's response, to a notice of agency action if it does not receive supporting medical documentation in a timely manner.

(5) Notice of Agency Action:

(a) An agency shall provide a written notice of action to each aggrieved person. Such action includes, but is not limited to:

(i) denial of an application for a medical cannabis card, or a QMP, PMP, pharmacy agent, or courier agent registration card;

(ii) suspension, or revocation, of a medical cannabis card or a QMP, PMP, pharmacy agent, or courier agent registration card;

(iii) suspension, or revocation, of a medical cannabis pharmacy license, or a home delivery medical cannabis pharmacy license; and

(iv) imposition of a penalty, or fine, authorized under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(b) The notice must include:

(i) a statement of the action the agency intends to take;

(ii) the date the intended action becomes effective;

(iii) the reason for the intended action;

(iv) the specific regulation that support the action, or the change in federal law, state law, or Department rule which requires the action;

(v) the right to submit a response, and request an administrative hearing;

(vi) the right to represent oneself, the right to legal counsel, or the right to use another representative at the hearing; and

(vii) if applicable, an explanation of the circumstance under which the license, or card, will continue, or may be reinstated, pursuant to this rule.

(c) The agency shall mail the notice, or electronically notify the person at the email address on file with the EVS; at least 10 calendar days before the date of the intended action.

(6) The agency may issue an order on an emergency basis pursuant to Section 63G-4-502. The aggrieved party may request an administrative hearing, pursuant to this rule.

R380-411-5. Hearing and a Request for a Hearing.

(1) The Center shall conduct an informal hearing for all issues, except those specifically designated as a formal hearing pursuant to this rule. The presiding officer may convert the proceeding to a formal hearing, if an aggrieved person requests a hearing that meets the criteria pursuant to Section 63G-4-202. If a hearing under this rule is converted to a formal hearing, pursuant to Section 63G-4-202, the formal hearing shall be conducted pursuant to these rules; except as otherwise provided in Sections 63G-4-204 through 63G-4-208, or other applicable statutes.

(2) An aggrieved person shall request a hearing by submitting the request on a Center "Request for Hearing/Agency Action" form and mailing it to the Center. The request must explain why the aggrieved person is seeking agency relief.

(3) A Request for Hearing/Agency Action, or a Response, and Request for Hearing that response, which an aggrieved person sends via mail is deemed filed on the date of the postmark. If the postmark date is illegible, erroneous, or omitted, the request is deemed filed on the date that the agency receives it, unless the sender can demonstrate through competent evidence of the mailing date.

(4) Failure to submit a timely response, and request for a hearing, constitutes a waiver of an individual's due process rights.

(5) The Agency shall conduct a hearing in connection with an agency action, if the aggrieved person requests a hearing and there is a disputed issue of fact. If there is no disputed issue of fact, the presiding officer may deny a request for a hearing, and issue a recommended decision without a hearing, based on the record. There is no disputed issue of fact, if the aggrieved person submits facts that do not conflict with the facts that the agency relies upon in taking action or seeking relief. In the recommended decision, the presiding officer shall specifically set out all material, and relevant facts, that are not in dispute.

(6) The Agency may dismiss a request for a hearing, if the aggrieved person:

(a) withdraws the request in writing;

(b) verbally withdraws the hearing request at a settlement conference, or prehearing conference;

(c) fails to appear, or participate, in a scheduled proceeding without good cause;

(d) prolongs the hearing process without good cause;

(e) cannot be located, or agency mail is returned without a forwarding address; or

(f) does not respond to any correspondence from the presiding officer, or fails to provide medical records that the agency requests.

(7) If the aggrieved person objects to the hearing denial, the person may raise that objection as grounds for relief, in a request for reconsideration.

R380-411-6. Notice of Hearing.

(1) The Agency shall notify the aggrieved person, or representative, in writing of the date, time, and place of the hearing, at least 10 calendar days before the date of the hearing; unless each party agrees to an alternative time frame. Any aggrieved person must inform the Agency of a current address, email address, and telephone number.

R380-411-7. Prehearing Procedures.

(1) The Agency shall conduct a Settlement Conference between the Agency, and the aggrieved party, within 30 calendar days from the date it receives a request for a hearing, or agency action. If a settlement cannot be reached, including a withdrawal, dismissal or granting of the request for action, the Agency shall notify the presiding officer to set a date for the administrative hearing.

(2) The presiding officer may elect to conduct a preliminary conference to:

(a) formulate or simplify the issues;

(b) obtain admissions of fact, and documents that will avoid unnecessary proof;

(c) arrange for the exchange of proposed exhibits or prepared expert testimony;

(d) outline procedures for the hearing; or

(e) to agree to other matters that may expedite the orderly conduct of the hearing or settlement.

(3) The presiding officer may require each party to submit a prehearing position statement setting forth the position of the party.

(4) The party may enter into a written stipulation resolving all, or part, of the adjudicative action during the preliminary conference, or at any time during the process.

(5) Ex parte communication with the presiding officer are prohibited. If a party attempts ex parte communication, the presiding officer shall inform the offender that any communication that the hearing officer receives off the record, will become part of the record, and furnished to each party. Ex parte communication does not apply to communication on the status of the hearing, and uncontested procedural matters.

(6) The Agency shall allow the aggrieved person, or a representative, to examine each document and record relevant to the adjudicative proceeding; at least three days before the hearing.

(7) The presiding officer may require each party to file a signed prehearing disclosure form, at least 10 calendar days before the scheduled hearing that identifies:

(a) any fact witness;

(b) any expert witness;

(c) any exhibit and report that each party intends to offer into evidence at the hearing.

(8) Each party shall supplement the disclosure form with information that shall become available after filing the original form.

R380-411-8. Conduct of Hearing.

(1) The Agency shall conduct a hearing pursuant to Section 63G-4-203 for an informal adjudicative proceeding.

(2) The agency head shall appoint an impartial presiding officer to conduct a hearing. Previous involvement in the initial determination of the action precludes an officer from appointment.

(3) A telephonic hearing will be held at the discretion of the presiding officer.

(4) The presiding officer shall take testimony under oath or affirmation.

(5) Each party has the right to:

(a) present evidence, argue, respond, conduct cross-examination, and submit rebuttal evidence;

NOTICES OF 120-DAY (EMERGENCY) RULES

- (b) introduce exhibits;
- (c) impeach any witness, regardless of which party first called the witness to testify; and
- (d) rebut the evidence against the party.
- (6) Each party may admit any relevant evidence and use hearsay evidence to supplement, or explain other evidence, as may be required for full disclosure of each fact relevant to the disposition of the hearing. Hearsay, however, is not sufficient by itself to support a finding, unless admissible over objection in civil actions. The presiding officer shall give effect to the rules of privilege recognized by law, and may exclude irrelevant, immaterial, and unduly repetitious evidence.
- (7) The presiding officer shall control the evidence, to obtain full disclosure of the relevant facts, and to safeguard the rights of each party. The presiding officer may determine the order in which he receives the evidence.
- (8) The presiding officer shall maintain order, and may recess the hearing to regain order if a person engages in disrespectful, disorderly, or disruptive conduct. The presiding officer may remove any person, including a participant, from the hearing to maintain order. If a person shows persistent disregard for order and procedure, the presiding officer may:
 - (a) restrict the person's participation in the hearing;
 - (b) strike pleadings or evidence; or
 - (c) issue an order of default.
- (9) If a party desires to employ a court reporter to make a record of the hearing, it must file an original transcript of the hearing with the hearing officer, at no cost to the agency.
- (10) The party who initiates the hearing process through a request for agency action, has the burden of proof as the moving party.
- (11) When a party possesses but fails to introduce certain evidence, the presiding officer may infer that the evidence does not support the party's position.
- (12) The presiding officer may issue an order of default against any party that fails to obey an order entered by the hearing officer.

R380-411-9. Record.

- (1) The presiding officer shall make a complete record of each hearing. A hearing record is the sole property of the Center.
- (2) Any proceedings other than a hearing may be recorded at the discretion of the hearing officer.
- (3) If a party requests a copy of the recording of a hearing, that party may transcribe the recording at the party's sole cost.

R380-411-10. Proposed Decision and Final Agency Review.

- (1) At the conclusion of the hearing, the presiding officer shall take the matter under advisement, and submit a recommended decision to the Agency Head. The recommended decision is based on the testimony and evidence entered at the hearing, Agency policy and procedure, and legal precedent.
- (2) The recommended decision must contain findings of fact and conclusions of law.
- (3) The Agency or the director's designee may:
 - (a) adopt the recommended decision, or any portion of the decision;
 - (b) reject the recommended decision, or any portion of the decision, and make an independent determination based upon the record; or
 - (c) remand the matter to the presiding officer to take additional evidence; and the presiding officer thereafter shall submit to the Agency director or the director's designee, a new recommended decision.

- (4) The agency head or their designee's decision constitutes final administrative action, and is subject to judicial review.
- (5) The Agency shall send a copy of the final administrative action to each party, or representative, and notify them of their right to judicial review.
- (6) Each party shall comply with a final decision from the director reversing the agency's decision, within 10 calendar days.

R380-411-11. Amending Administrative Orders.

- (1) The Agency may amend an order if the presiding officer determines that the order contains a clerical error.
- (2) The Agency shall notify each party its intent to amend the order by serving a notice of agency action signed by the hearing officer.
- (3) The Agency Director shall review the amended order and the Agency Director or the Agency Director's designee shall issue a final agency amended order.
- (4) The Agency shall provide a copy of the final amended order to each party.

R380-411-12. Reconsideration.

A party to the proceeding may move for reconsideration of the final administrative order pursuant to Section 63G-4-301.

R380-411-13. Judicial Review.

A party to the proceeding may obtain judicial review pursuant to Section 63G-4-102, and Sections 63G-4-400 through 63G-4-400.

R380-411-14. Declaratory Orders.

- (1) The Agency may issue a declaratory order pursuant to Rule R380-1.
- (2) If the Agency does not issue a declaratory order within 60 days after receipt of the request, the petition is denied.
- (3) The Agency may not issue a declaratory order if an adjudicative proceeding that involves the each party and the same issue is pending before the agency, or a federal, or state court.

KEY: medical cannabis, medical cannabis hearing, marijuana
Date of Enactment or Last Substantive Amendment: May 11, 2020
Authorizing, and Implemented or Interpreted Law: 63G-3; 63G-4-102; 26-1-24; 26-61a

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R386-702	Filing No. 52756

Agency Information

1. Department:	Health	
Agency:	Disease Control and Prevention, Epidemiology	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 142104	
City, state, zip:	Salt Lake City, UT 84114-2104	
Contact person(s):		
Name:	Phone:	Email:

Cindy Burnett	801-538-6692	cburnett@utah.gov
Rachelle Boulton	801-538-6185	rboulton@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:	
R386-702. Communicable Disease Rule	
3. Effective Date:	
05/15/2020	
4. Purpose of the new rule or reason for the change:	
The purpose of this rule change is to amend the list of reportable diseases and clarify language to improve interpretation of this rule's requirements.	
5. Summary of the new rule or change:	
COVID-19 is added to the communicable disease rule as an immediately reportable condition, and all test results for COVID-19 are reportable by electronic reporters. Language is clarified in Section R386-702-7 to specify that all patient demographic information must be submitted to a performing laboratory for appropriate reporting to public health.	
6. Regular rulemaking would:	
X	cause an imminent peril to the public health, safety, or welfare;
	cause an imminent budget reduction because of budget restraints or federal requirements; or
	place the agency in violation of federal or state law.
Specific reason and justification:	
COVID-19 has emerged as a novel condition of extreme public health concern and public health must be able to collect comprehensive data immediately in order to protect the public and inform policy.	

Fiscal Information

7. Aggregate anticipated cost or savings to:
A) State budget:
This rule amendment will result in a cost to the Utah Department of Health (Department) of \$2,000 to pay for personnel time to configure surveillance systems and establish electronic laboratory reporting.

B) Local governments:
This rule change will have no fiscal impact on local governments. Changes to Utah's disease surveillance system and working with labs and health care facilities to ensure compliance occur are the responsibility of the Department.
C) Small businesses ("small business" means a business employing 1-49 persons):
Affected industries include healthcare systems and laboratories performing COVID-19 testing. A search of small business using Department of Workforce Services' (DWS) Firm Find did not identify any small businesses that would be impacted by this rule change.
D) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):
Affected industries include healthcare systems and laboratories performing COVID-19 testing. Using DWS Firm Find, information from the Utah Public Health Laboratory, and information in Utah's EpiTrax database, we identified 35 healthcare facilities and laboratories that are currently conducting COVID-19 testing. Additional healthcare facilities are laboratories are planning to bring on COVID-19 testing in the near future. The Department estimates a total of 50 healthcare facilities and labs will be impacted by this rule. The Department estimates it will take 5 hours of programming time at \$75/hour to configure electronic reporting systems (total \$18,750).
8. Compliance costs for affected persons:
Affected persons are as follows: State: Utah Department of Health. It will cost \$2,000 to configure systems and establish ELR feeds (as outlined above). Once ELR is established there are no ongoing costs for state entities. Non-Small Businesses: The cost of coming into compliance for affected businesses is estimated to be \$18,750. Once ELR feeds are established, there are no on-going costs to comply with this rule change. Other Persons: No other specific persons will be affected by this rule. There are no compliance costs associated with this rule change for any other specific persons.
9. A) Comments by the department head on the fiscal impact this rule may have on businesses:
There are no small businesses that will be fiscally impacted by this change. Each of the identified 50 non-small businesses will likely see a cost for 5 hours to configure electronic reporting systems at \$75 per hours, a total impact of \$18,750 for all 50 facilities.

The need for COVID-19 testing and reporting during this public health emergency justifies the minimum fiscal impact on business.

B) Name and title of department head commenting on the fiscal impacts:

Joseph K. Miner, MD, Executive Director

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 26-1-30	Section 26-6-3	Title 26, Chapter 23b
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Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	05/12/2020
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R386. Health, Disease Control and Prevention, Epidemiology. R386-702. Communicable Disease Rule.

R386-702-1. Purpose Statement.

(1) The Communicable Disease Rule is adopted under authority of Sections 26-1-30, 26-6-3, and 26-23b.

(2) This rule outlines a multidisciplinary approach to communicable and infectious disease control and emphasizes reporting, surveillance, isolation, treatment and epidemiological investigation to identify and control preventable causes of infectious diseases. Reporting requirements and authorizations are specified for communicable and infectious diseases, outbreaks, and unusual occurrence of any disease. Each section has been adopted with the intent of reducing disease morbidity and mortality through the rapid implementation of established practices and procedures.

(3) The successes of medicine and public health dramatically reduced the risk of epidemics and early loss of life due to infectious agents during the twentieth century. However, the emergence of diseases such as Middle Eastern Respiratory Syndrome (MERS), and the rapid spread of diseases such as West Nile virus to the United States from other parts of the world, made possible by advances in transportation, trade, food production, and other factors, highlight the continuing threat to health from infectious diseases. Continual attention to these threats and cooperation among all health care providers, government agencies, and other entities that are partners in protecting the public's health are crucial to maintain and improve the health of the citizens of Utah.

R386-702-2. Definitions.

- (1) Terms in this rule defined in Section 26-6-2:
 - (a) Carrier
 - (b) Communicable disease
 - (c) Contact
 - (d) Epidemic
 - (e) Infection
 - (f) Schools
- (2) Terms in this rule defined in Section 26-6-6:
 - (a) Health care provider

- (3) Terms in this rule defined in Section 26-21-2:
 - (a) Assisted living facilities
 - (b) Nursing care facilities
- (4) Terms in this rule defined in Section 26-23b-102:
 - (a) Bioterrorism
- (5) Terms in this rule defined in Section 26-39-102:
 - (a) Childcare programs
- (6) Terms in this rule defined in Section 78B-3-403:
 - (a) Health care facilities
- (7) Terms in this rule defined in Section 62A-15-602:
 - (a) Mental health facilities
- (8) Terms in this rule defined in Section R386-80-2:
 - (a) Local health department
- (9) In addition, for purposes of this rule:

(a) "Blood and plasma center" is defined as a blood bank, blood storage facility, plasma center, hospital, any another facility where blood or blood products are collected, or any facility where blood services are provided.

(b) "Care facilities licensed through the Department of Human Services" is described as any facility licensed through the Utah Department of Human Services, and includes adult day care facilities, adult foster care facilities, crisis respite facilities, domestic violence shelters and treatment programs, foster care homes, mental health treatment programs, residential treatment and day treatment facilities for persons with disabilities, substance abuse treatment programs, and youth treatment programs.

(c) "Case" is defined as any person, living or deceased, identified as having a communicable disease, condition, or syndrome that meets criteria for being reportable under this rule, or that is otherwise under public health investigation.

(d) "Clinic" is defined as any facility where a health care provider practices.

(e) "Condition" is defined as an abnormal state of health that may interfere with a person's regular feelings of wellbeing.

(f) "Correctional facility" is defined as an facility that forcibly confines an individual under the authority of the government, including but not limited to prisons, detention centers, jails, juvenile detention centers.

(g) "Department" is defined as the Utah Department of Health.

(h) "Diagnostic facility" is defined as the facility where the case or suspect case was seen and evaluated by a healthcare provider.

(i) "Dispensary" is defined as an office in a school, hospital, industrial plant, or other organization that dispenses medications or medical supplies.

(j) "Electronic case reporting" is defined as the transmission of clinical, diagnostic, laboratory, and treatment related data from reporting entities to the Department in a structured, computer-readable format that reflects comparable content to HL7 CDA(reg trademark) R2 Implementation Guide: Public Health Case Report, Release 2 - US Realm - the Electronic Initial Case Report (eICR). Electronic Initial Case Reporting is a form of electronic reporting.

(k) "Electronic laboratory reporting" is defined as the transmission of laboratory or health related data from reporting entities to the Department using HL7 ORU-R01 2.3.1 or 2.5.1, LOINC, and SNOMED standard message structure and vocabulary. Electronic laboratory reporting is a form of electronic reporting.

(l) "Electronic reporting" is defined as the transmission of laboratory or health related data from reporting entities to the Department in a structured, computer-readable format that reflects comparable content to HL7 messaging.

(m) "Encounter" is defined as an instance of an individual presenting to a health care facility.

(n) "Event" is defined as any communicable disease, condition, laboratory result, syndrome, outbreak, epidemic, or other public health hazard that meets criteria for being reportable under this rule.

(o) "Good Samaritan" is defined as a person who gives reasonable aid to strangers in grave physical distress.

(p) "Invasive disease" is defined as infection occurring in parts of the body where organisms are not normally present, such as the bloodstream, organs, or the meninges.

(q) "Laboratory" is defined as any facility that receives, refers, or analyzes clinical specimens.

(r) "Manual reporting" is defined as the transmission of laboratory or health related data from reporting entities to the Department using processes that require hand keying for data to be incorporated into Department databases.

(s) "Normally sterile site" is defined as a part of the body where organisms are not normally present, such as the bloodstream, organs, or the meninges.

(t) "Outbreak" is defined as the increased occurrence of any communicable disease, health condition, or syndrome in a community, institution, or region; or two or more cases of a communicable disease, health condition, or syndrome in persons with a common exposure.

(u) "Public health hazard" is defined as the presence of an infectious organism or condition in the environment which endangers the health of a specified population.

(v) "Suspect case" is defined as any person, living or deceased, who a reporting entity, local health department, or the Department believes might be a case, but for whom it has not been established that the criteria necessary to become a case have been met.

(w) "Syndrome" is defined as a set of signs or symptoms that often occur together.

R386-702-3. Reportable Events.

(1) The Department declares the following events to be of concern to public health and reporting of all instances is required or authorized by Sections 26-6-6 and 26-23b.

(2) Events Reportable by All Entities.

(a) Acute flaccid myelitis;

(b) Adverse event resulting from smallpox vaccination (Vaccinia virus, Orthopox virus);

(c) Anaplasmosis (*Anaplasma phagocytophilum*);

(d) Anthrax (*Bacillus anthracis*) or anthrax-like illness caused by *Bacillus cereus* strains that express anthrax toxin genes;

(e) Antibiotic resistant organisms from any clinical specimen that meet the following criteria:

(i) Resistant to a carbapenem in:

(A) *Acinetobacter* species,

(B) *Enterobacter* species,

(C) *Escherichia coli*, or

(D) *Klebsiella* species,

(ii) Resistant to vancomycin in:

(A) *Staphylococcus aureus* (VRSA),

(iii) Demonstrated carbapenemase production in:

(A) *Acinetobacter* species,

(B) *Enterobacter* species,

(C) *Escherichia coli*,

(D) *Klebsiella* species, or

(E) Any other Enterobacteriaceae species.

(f) Arbovirus infection, including but not limited to:

(i) Chikungunya virus infection,

(ii) West Nile virus infection, and

(iii) Zika virus infection, including congenital;

(g) Babesiosis (*Babesia* spp.);

(h) Botulism (*Clostridium botulinum*);

(i) Brucellosis (*Brucella* spp.);

(j) Campylobacteriosis (*Campylobacter* spp.);

(k) *Candida auris* or *Candida haemulonii* from any body site;

(l) Chagas disease (*Trypanosoma cruzi*);

(m) Chancroid (*Haemophilus ducreyi*);

(n) Chickenpox (*Varicella zoster virus*, VZV, Human herpesvirus 3, HHV-3);

(o) Chlamydia (*Chlamydia trachomatis*);

(p) Coccidioidomycosis (*Coccidioides* spp.), also known as valley fever;

(q) Colorado tick fever (Colorado tick fever virus, Coltivirus spp.), also known as American mountain tick fever;

(r) Novel coronavirus disease including: Middle East respiratory syndrome (MERS-CoV), Severe acute respiratory syndrome (SARS-CoV), and COVID-19 (SARS-CoV-2);

(s) Cryptosporidiosis (*Cryptosporidium* spp.);

(~~ts~~) Cyclosporiasis (*Cyclospora* spp., including *Cyclospora cayetanensis*);

(~~ut~~) Dengue fever (Dengue virus);

(~~vt~~) Diphtheria (*Corynebacterium diphtheriae*);

(~~wv~~) Ehrlichiosis (*Ehrlichia* spp.);

(~~xw~~) Encephalitis (bacterial, fungal, parasitic, protozoan, and viral);

(~~yx~~) Shiga toxin-producing *Escherichia coli* (STEC) infection;

(~~zy~~) Giardiasis (*Giardia lamblia*), also known as beaver fever;

(~~az~~) Gonorrhea (*Neisseria gonorrhoeae*), including sexually transmitted and ophthalmia neonatorum;

(~~ba~~) *Haemophilus influenzae*, invasive disease;

(~~cb~~) Hantavirus infection (Sin Nombre virus);

(~~de~~) Hemolytic uremic syndrome, postdiarrheal;

(~~ee~~) Hepatitis, viral, including but not limited to:

(i) Hepatitis A,

(ii) Hepatitis B (acute, chronic, and perinatal),

(iii) Hepatitis C (acute, chronic, and perinatal),

(iv) Hepatitis D, and

(v) Hepatitis E;

(~~fe~~) Human immunodeficiency virus (HIV) infection, including acquired immune deficiency syndrome (AIDS) diagnosis;

(~~gf~~) Influenza virus infection:

(i) Associated with a hospitalization,

(ii) Associated with a death in a person under 18 years of age,

or

(iii) Suspected or confirmed to be caused by a non-seasonal influenza strain;

(~~hg~~) Legionellosis (*Legionella* spp.), also known as Legionnaires' disease;

(~~ih~~) Leptospirosis (*Leptospira* spp.);

(~~ji~~) Listeriosis (*Listeria* spp., including *Listeria monocytogenes*);

(~~kk~~) Lyme disease (*Borrelia burgdorferi*, *Borrelia mayonii*);

(~~ll~~) Malaria (*Plasmodium* spp.);

(~~mm~~) Measles (Measles virus), also known as rubeola;

(~~nn~~) Meningitis (bacterial, fungal, parasitic, protozoan, and viral);

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(oo[~~mm~~]) Meningococcal disease (*Neisseria meningitidis*), invasive;

[~~—(oo) Middle East Respiratory Syndrome (MERS);~~]

(pp) Mumps (Mumps virus);

(qq) Mycobacterial infections, including:

(i) Tuberculosis (*Mycobacterium tuberculosis* complex),

(ii) Leprosy (*Mycobacterium leprae*), also known as Hansen's

Disease,

(iii) All other mycobacterial infections (*Mycobacterium*

spp.);

(rr) Pertussis (*Bordetella pertussis*);

(ss) Plague (*Yersinia pestis*);

(tt) Poliomyelitis (Poliovirus), paralytic and nonparalytic;

(uu) Psittacosis (*Chlamydomphila psittaci*), also known as

ornithosis;

(vv) Q fever (*Coxiella burnetii*);

(ww) Rabies (Rabies virus), human and animal;

(xx) Relapsing fever (*Borrelia* spp.), tick-borne and louse-

borne;

(yy) Rubella (Rubella virus), including congenital syndrome;

(zz) Salmonellosis (*Salmonella* spp.);

[~~—(aaa) Severe acute respiratory syndrome, also known as SARS (SARS coronavirus or SARS-CoV);~~]

(aaa[~~bbb~~]) Shigellosis (*Shigella* spp.);

(bbb[~~eee~~]) Smallpox (*Variola major* and *Variola minor*);

(ccc[~~ddd~~]) Spotted fever rickettsioses (*Rickettsia* spp.),

including Rocky Mountain spotted fever (*Rickettsia rickettsii*);

(ddd[~~eee~~]) Streptococcal disease, invasive, due to:

(i) *Streptococcus pneumoniae*,

(ii) Group A *Streptococcus* (*Streptococcus pyogenes*), and

(iii) Group B *Streptococcus* (*Streptococcus agalactiae*);

(eee[~~fff~~]) Syphilis (*Treponema pallidum*), including:

(i) all stages,

(ii) congenital, and

(iii) syphilitic stillbirths;

(fff[~~ggg~~]) Tetanus (*Clostridium tetani*);

(ggg[~~hhh~~]) Toxic shock syndrome, staphylococcal

(*Staphylococcus aureus*) or streptococcal (*Streptococcus pyogenes*);

(hhh[~~iii~~]) Transmissible spongiform encephalopathies (prion

diseases), including Creutzfeldt-Jakob disease;

(iii[~~jjj~~]) Trichinellosis (*Trichinella* spp.);

(jjj[~~kkk~~]) Tularemia (*Francisella tularensis*);

(kkk[~~lll~~]) Typhoid (*Salmonella typhi*), cases and carriers;

(lll[~~mmm~~]) Vibriosis (*Vibrio* spp.), including Cholera (*Vibrio*

cholerae);

(mmm[~~nnn~~]) Viral hemorrhagic fevers, including but not

limited to:

(i) Ebola fever (*Ebolavirus* spp.),

(ii) Lassa fever (Lassa virus), and

(iii) Marburg fever (Marburg virus);

(nnn[~~ooo~~]) Yellow fever (Yellow fever virus).

(3) Perinatally Transmissible Conditions Reportable by All

Entities.

(a) Pregnancy is a reportable event for the following communicable diseases, and reporting is required even if the communicable disease was reported to public health prior to the pregnancy:

(i) Hepatitis B infection;

(ii) Hepatitis C infection;

(iii) HIV infection;

(iv) Listeriosis;

(v) Rubella;

(vi) Syphilis infection; and

(vii) Zika virus infection.

(4) Antimicrobial Susceptibility Tests Reportable by All

Entities.

(a) Full panel antimicrobial susceptibility test results, including minimum inhibitory concentration and results suppressed to the ordering clinician, are reportable when performed on the following organisms:

(i) *Candida auris*/*Candida haemulonii* from any body site;

(ii) *Mycobacterium tuberculosis*;

(iii) *Neisseria gonorrhoeae*;

(iv) *Salmonella* species;

(v) *Shigella* species; and

(vi) *Streptococcus pneumoniae*.

(vii) Organisms resistant to a carbapenem in:

(A) *Acinetobacter* species,

(B) *Enterobacter* species,

(C) *Escherichia coli*,

(D) *Klebsiella* species;

(viii) Organisms resistant to vancomycin in:

(A) *Staphylococcus aureus* (VRSA)

(b) All individual carbapenemase test results (positive, negative, equivocal, indeterminate), including the method used, are reportable when performed on the following organisms:

(i) Resistant to a carbapenem, or with demonstrated carbapenemase, in:

(A) *Acinetobacter* species,

(B) *Enterobacter* species,

(C) *Escherichia coli*, and

(D) *Klebsiella* species.

(b) Antiviral susceptibility test results; including nucleotide sequencing, genotyping, or phenotypic analysis; are reportable when performed on the following organisms:

(i) Human immunodeficiency virus (HIV).

(5) Unusual Events Reportable by All Entities.

(a) Unusual events include one or more cases or suspect cases of a communicable disease, condition, or syndrome considered:

(i) Rare, unusual, or new to Utah;

(ii) Previously controlled or eradicated;

(iii) Caused by an unidentified or newly identified organism;

(iv) Exposure or infection that may indicate a bioterrorism event with potential transmission to the public; or

(v) Any other infection not explicitly identified in Subsection R386-702-3(2) that public health considers a public health hazard.

(6) Outbreaks, Epidemics, or Unusual Occurrences of Events Reportable by All Entities.

(a) Entities shall report two or more cases or suspect cases, with or without an identified organism, including but not limited to:

(i) Gastrointestinal illnesses;

(ii) Respiratory illnesses;

(iii) Meningitis or encephalitis;

(iv) Infections caused by antimicrobial resistant organisms;

(v) Illnesses with suspected foodborne or waterborne transmission;

(vi) Illnesses with suspected ongoing transmission in any facility;

(vii) Infections that may indicate a bioterrorism event; or

(viii) Any other infections not explicitly identified in Subsection R386-702-3(2) that public health considers a public health hazard.

(b) Entities shall report increases or shifts in pharmaceutical sales that may indicate changes in disease trends; or

(7) Laboratory Results Reportable by Electronic Reporters.

(a) In addition to laboratory results set forth in Subsections R386-702-3(2) through R386-702-3(6), entities reporting electronically shall include the following laboratory results or laboratory results that provide presumptive evidence of the following communicable diseases:

- (i) Influenza virus;
- (ii) Norovirus infection;
- (iii) *Pseudomonas aeruginosa*, resistant to a carbapenem, or with demonstrated carbapenemase production;

(iv) *Staphylococcus aureus* from a normally sterile site with methicillin testing performed, reported as either methicillin-susceptible *Staphylococcus aureus* (MSSA) or methicillin-resistant *Staphylococcus aureus* (MRSA); and

- (v) Streptococcal disease, invasive due to all species.

(b) Entities reporting electronically shall include all laboratory results (positive, negative, equivocal, indeterminate) associated with the following tests or conditions:

(i) CD4+ T-Lymphocyte tests, regardless of known HIV status;

- (ii) Chlamydia;
- (iii) *Clostridium difficile*;
- (iv) Novel coronavirus COVID-19 (SARS-CoV-2), including IgM and IgG serology;

(v) Cytomegalovirus (CMV), congenital (infants less than or equal to 12 months of age);

- (vi) Gonorrhea;
- (vii) Hepatitis A;
- (viii) Hepatitis B, including viral loads;
- (ix) Hepatitis C, including viral loads;
- (x) HIV, including viral loads and confirmatory tests;
- (xi) Liver function tests, including ALT, AST, and bilirubin associated with a viral hepatitis case;

- (xii) Lyme disease;
- (xiii) Respiratory syncytial virus (RSV);
- (xiv) Syphilis;
- (xv) Tuberculosis; and
- (xvi) Zika virus.

(c) Entities reporting electronically shall report full panel antibiotic susceptibility test results, including minimum inhibitory concentration and results suppressed to the ordering clinician, are reportable when performed on the following organisms:

(i) *Pseudomonas aeruginosa*, resistant to a carbapenem, or with demonstrated carbapenemase.

(d) The Department may, by authority granted through Section 26-23b, identify additional reporting criteria when deemed necessary for the management of outbreaks or identification of exposures.

(e) Non-positive laboratory results reported for the events identified in Subsection R386-702-3(7)(b) will be used for the following purposes as authorized in Utah Health Code Subsections 26-1-30(2)(c), 26-1-30(2)(d), and 26-1-30(2)(f):

(i) To determine when a previously reported case becomes non-infectious;

(ii) To identify newly acquired infections through identification of a seroconversion window; or

(iii) To provide information critical for assignment of a case status.

(f) Information associated with a non-positive laboratory result will be kept by the Department for a period of 18 months.

(i) At the end of the 18 month period, if the result has not been appended to an existing case, personal identifiers will be stripped and expunged from the result.

(ii) The de-identified result will be added to a de-identified, aggregate dataset.

(iii) The dataset will be kept for use by public health to analyze trends associated with testing patterns and case distribution, and identify and establish prevention and intervention efforts for at-risk populations.

(8) Authorized Reporting of Syndromes and Conditions.

(a) Reporting of encounters for the following syndromes and conditions is authorized by Chapter 26-23b, unless made mandatory by the declaration of a public health emergency:

(i) Respiratory illness, including but not limited to:

- (A) Upper or lower respiratory tract infections,
- (B) Difficulty breathing, or
- (C) Adult respiratory distress syndrome;

(ii) Gastrointestinal illness, including but not limited to:

- (A) Vomiting,
- (B) Diarrhea, or
- (C) Abdominal pain;

(iii) Influenza-like constitutional symptoms or signs;

(iv) Neurologic symptoms or signs indicating the possibility of meningitis, encephalitis, or unexplained acute encephalopathy or delirium;

(v) Rash illness;

(vi) Hemorrhagic illness;

(vii) Botulism-like syndrome;

(viii) Lymphadenitis;

(ix) Sepsis or unexplained shock;

(x) Febrile illness (illness with fever, chills or rigors);

(xi) Nontraumatic coma or sudden death; and

(xii) Other criteria specified by the Department as indicative of disease outbreaks or injurious exposures of uncertain origin.

(b) Reporting of encounters for syndromes and conditions not specified in Subsection R386-702-3(8)(a) is also authorized by Chapter 26-23b, unless made mandatory by the declaration of a public health emergency.

(c) Information included in the reporting of the events identified in Subsection R386-702-3(8)(a) and R386-702-3(8)(b) will be used for the following purposes:

(i) To support early identification and ruling out of public health threats, disasters, outbreaks, suspected incidents, and acts of bioterrorism;

(ii) To assist in characterizing population groups at greatest risk for disease or injury;

(iii) To support assessment of the severity and magnitude of possible threats; or

(iv) To satisfy syndromic surveillance objectives of the Federal Centers for Medicaid and Medicare Meaningful Use incentive program.

(9) Reporting Exceptions

(a) A university or hospital that conducts research studies exempt from reporting AIDS and HIV infection under Section 26-6-3.5 shall seek written approval of reporting exemption from the Department institutional review board prior to the study commencement.

(b) The university or hospital shall submit the following to the HIV Epidemiologist within 30 days of Department institutional review board approval:

(i) A summary of the research protocol, including funding sources and justification for requiring anonymity; and

(ii) Written approval from the Department institutional review board.

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(c) The university or hospital shall submit a report that includes all of the indicators specified in Subsection 26-6-3.5(4)(a) to the HIV Epidemiologist annually during an ongoing research study.

(d) The university or hospital shall submit a final report that includes all of the indicators specified in Subsection 26-6-3.5(4)(a) to the HIV Epidemiologist within 30 days of the conclusion of the research study.

(e) Documents can be submitted to the HIV Epidemiologist by fax at (801) 538-9923 or by mail to 288 North 1460 West Salt Lake City, Utah 84116.

R386-702-4. Entities Required to Report.

(1) Section 26-6-6 lists those entities required to report cases or suspect cases of the reportable events set forth in Section R386-702-3. This includes:

- (a) Health care providers, as defined in Section 78B-3-403;
- (b) Health care facilities, as defined in Section 78B-3-403;
- (c) Health care facilities operated by the federal government;
- (d) Mental health facilities, as defined in Section 62A-15-

602;

(e) Care facilities licensed through the Department of Human Services;

(f) Nursing care facilities and assisted living facilities, as defined in Section 26-21-2;

(g) Dispensaries;

(h) Clinics;

(i) Laboratories;

(j) Schools, as defined in Section 26-6-2;

(k) Childcare programs, as defined in Section 26-39-102; and

(l) Any individual with a knowledge of others who have a communicable disease.

(2) In addition, the following entities are required to report cases or suspect cases of the reportable events set forth in Section R386-702-3:

(a) Blood and plasma donation centers; and

(b) Correctional facilities

(3) When more than one entity is involved in the processing of a clinical specimen (receiving, forwarding, or analyzing); or the diagnosis, treatment, or care of a case or suspect case; all entities involved are required to report; even when diagnosis or testing is done outside of Utah.

(4) Health care entities may designate a single person or group of persons to report the events identified in Section R386-702-3 to public health on behalf of their health care providers or medical laboratories, as long as reporting complies with all requirements in this rule.

R386-702-5. Mandatory Submission of Clinical Material.

(1) Laboratories shall submit clinical material from all cases identified with organisms listed in Subsection R386-702-5(3) to the Utah Department of Health, Utah Public Health Laboratory (UPHL) within three working days of identification.

(a) Clinical material is defined as:

(i) A clinical isolate containing the organism for which submission of material is required; or

(ii) If an isolate is not available, material containing the organism for which submission of material is required, in the following order of preference:

(A) a patient specimen,

(B) nucleic acid, or

(C) other laboratory material.

(2) Laboratories submitting clinical material from cases identified with organisms designated by UPHL as potential bioterrorism agents shall first notify UPHL via telephone immediately.

(a) UPHL can be contacted during business hours at (801) 965-2400, or after hours at (801) 560-6586, of all bioterrorism agents that are being submitted.

(3) Organisms mandated for standard clinical submission include:

(a) Antibiotic resistant organisms from any clinical specimen that meet the following criteria:

(i) Resistant to a [~~carbapenem~~carbapenem] in:

(A) Acinetobacter species,

(B) Enterobacter species,

(C) Escherichia coli, or

(D) Klebsiella species,

(E) Pseudomonas aeruginosa,

(ii) Resistant to vancomycin in:

(A) Staphylococcus aureus (VRSA),

(iii) Demonstrated carbapenemase production in:

(A) Acinetobacter species,

(B) Enterobacter species,

(C) Escherichia coli,

(D) Klebsiella species,

(E) Any other Enterobacteriaceae species, or

(F) Pseudomonas aeruginosa.

(b) Campylobacter species;

(c) Candida auris or Candida haemulonii from any body site;

(d) Corynebacterium diphtheriae;

(e) Shiga toxin-producing Escherichia coli (STEC), including enrichment and/or MacConkey broths that tested positive by any method for Shiga toxin;

(f) Haemophilus influenzae, from normally sterile sites;

(g) Influenza A virus, unsubtypeable;

(h) Influenza virus (hospitalized cases only);

(i) Legionella species;

(j) Listeria monocytogenes;

(k) Measles (rubeola) virus;

(l) Mycobacterium tuberculosis complex;

(m) Neisseria meningitidis, from normally sterile sites;

(n) Salmonella species;

(o) Shigella species;

(p) Vibrio species;

(q) West Nile virus;

(r) Yersinia species;

(s) Zika virus; and

(t) Any organism implicated in an outbreak when instructed by authorized local or state health department personnel.

(4) Organisms mandated for bioterrorism clinical submission include:

(a) Bacillus anthracis;

(b) Brucella species;

(c) Clostridium botulinum;

(d) Francisella tularensis; and

(e) Yersinia pestis.

(5) Submission of clinical material does not replace the requirement for laboratories to report the event to public health as defined in Sections R386-702-6 and R386-702-7.

(6) For additional information on this process, contact UPHL at (801) 965-2400.

R386-702-6. Reporting Criteria.

(1) Manual Reporting

(a) Reporting Timeframes

(i) Entities shall report immediately reportable events by telephone as soon as possible, but no later than 24 hours after identification. Events designated as immediately reportable by the Department include cases and suspect cases of:

- (A) Anthrax or anthrax-like illness;
- (B) Botulism, excluding infant botulism;
- (C) Cholera;
- (D) Novel coronavirus disease including: Middle East Respiratory Syndrome (MERS), Severe acute respiratory syndrome (SARS), and COVID-19 (SARS-CoV-2);

~~(E) Diphtheria;~~

~~(F) Haemophilus influenzae, invasive disease;~~

~~(G) Hepatitis A;~~

~~(H) Influenza infection suspected or confirmed to be caused by a non-seasonal influenza strain;~~

~~(I) Measles;~~

~~(J) Meningococcal disease, invasive;~~

~~(K) Middle East Respiratory Syndrome (MERS);~~

~~(L) Plague;~~

~~(M) Poliovirus, paralytic and nonparalytic;~~

~~(N) Rabies, human and animal;~~

~~(O) Rubella, excluding congenital syndrome;~~

~~(P) Severe acute respiratory syndrome (SARS);~~

~~(Q) Smallpox;~~

~~(R) Staphylococcus aureus from any clinical specimen that is resistant to vancomycin;~~

~~(S) Transmissible spongiform encephalopathies (prion diseases), including Creutzfeldt-Jakob disease;~~

~~(T) Tuberculosis;~~

~~(U) Tularemia;~~

~~(V) Typhoid, cases and carriers;~~

~~(W) Viral hemorrhagic fevers;~~

~~(X) Yellow fever; or~~

~~(Y) Any event described in Subsections R386-702-3(5) or R386-702-3(6).~~

(ii) Entities shall report all events in Subsections R386-702-3(2) through R386-702-3(6) not required to be reported immediately within three working days from the time of identification.

(b) Methods for Reporting

(i) Entities reporting manually shall send reports to either a local health department or the Department by phone, secured fax, secured email, or mail.

(ii) Contact information for the Department is as follows:

(A) Phone: (801) 538-6191 during business hours, or 888-EPI-UTAH (888-374-8824) after hours;

(B) Secured fax: (801) 538-9923;

(C) Secured email: reporting@utah.gov (contact the Department at (801) 538-6191 for information on this option); and

(D) Mail: 288 North 1460 West Salt Lake City, Utah 84116.

(iii) A confidential morbidity report form is available at: <http://health.utah.gov/epi/reporting/>.

(iv) The Department incorporates by reference version 2.1 of the Utah Reporting Specifications for Communicable Diseases, which identifies individual laboratory tests that shall be reported to the Department by manual reporting entities.

(2) Electronic Reporting

(a) Reporting Timeframes

(i) All entities that report electronically shall report laboratory results within 24 hours of finalization.

(A) Entities can choose to report in real-time (as each report is released) or batch reports.

(B) Entities reporting electronically shall report preliminary positive results for the immediately reportable events specified in Subsection R386-702-6(1)(a)(i).

(b) Methods for Reporting

(i) All laboratories that identify cases or suspect cases shall report to the Department through electronic laboratory reporting, in a manner approved by the Department. Reportable events shall be identified by automated computer algorithms.

(A) Laboratories may substitute electronic reporting if electronic laboratory reporting is not available, with permission from the Department, and in a manner approved by the Department.

(B) Hospitals reporting electronically shall use HL7 2.5.1 message structure, and standard LOINC and SNOMED terminology in accordance with Meaningful Use regulations.

(C) Laboratories reporting electronically shall use HL7 2.3.1 or 2.5.1 message structure, and appropriate LOINC codes designating the test performed.

(D) Entities reporting electronically shall submit all local vocabulary codes with translations to the Division of Disease Control and Prevention Informatics Program, if applicable.

(E) The Department incorporates by reference version 1.2 of the Utah Electronic Laboratory Reporting Specifications for Communicable Diseases, which identifies individual laboratory tests that shall be reported to the Department by electronic reporting entities.

(F) For additional information on this process, refer to <https://health.utah.gov/phaccess/public/elr/> or contact the Division of Disease Control and Prevention Informatics Program by phone (801-538-6191) or email (edx@utah.gov).

(ii) Electronic case reporting is an authorized method of reporting to the Department. For additional information on this process, contact the Division of Disease Control and Prevention Informatics Program by phone (801-538-6191) or email (edx@utah.gov).

(A) Entities reporting via electronic case reporting may send all clinical information for an encounter that meets criteria for reporting to public health.

(3) Syndromic Reporting

(a) Reporting Timeframes

(i) Entities reporting syndromes or conditions identified in Subsection R386-702-3(8) shall report as soon as practicable using a schedule approved by the Department.

(b) Methods for Reporting

(i) For information on reporting syndromic data, refer to <https://health.utah.gov/phaccess/public/SS/> or contact the Division of Disease Control and Prevention Informatics Program by phone (801-538-6191) or email (edx@utah.gov).

R386-702-7. Required Information.

(1) Entities shall include as much of the following information as is known when reporting events specified in Subsections R386-702-3(2) through R386-702-3(6) to public health:

(a) Patient information:

(i) Full name;

(ii) Date of birth;

(iii) Address, including street address, city, state, and zip code;

(iv) Telephone number;

(v) Gender;

(vi) Race and ethnicity;

(vii) Date of onset;

(viii) Hospitalization status and date of admission; and

(ix) Pregnancy status and estimated due date.

(b) Diagnostic information:

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- (i) Name of the diagnostic facility;
- (ii) Address, including street address, city, state, and zip code; of the diagnostic facility;
- (iii) Telephone number of the diagnostic facility;
- (iv) Full name of the ordering or diagnosing health care provider;
- (v) Address, including street address, city, state, and zip code; of the ordering or diagnosing health care provider; and
- (vi) Telephone number of the ordering or diagnosing health care provider.
- (c) Reporter information:
 - (i) Full name of the person reporting;
 - (ii) Name of the facility reporting; and
 - (iii) Telephone number of the person or facility reporting.
- (d) Laboratory testing information:
 - (i) Name of the laboratory performing the test;
 - (ii) The laboratory's name for, or description of, the test;
 - (iii) Specimen source;
 - (iv) Specimen collection date;
 - (v) Testing results;
 - (vi) Test reference range; and
 - (vii) Test status (e.g. preliminary, final, amended and/or corrected).

(2) Entities shall submit reports that are clearly legible and do not contain any internal codes or abbreviations to the Department.

(3) Entities submitting or forwarding a specimen for testing using a laboratory test identified in the Utah Electronic Laboratory Reporting Specifications for Communicable Diseases shall include the patient's full name, date of birth, address, and telephone number, so that the performing laboratory can report results to the appropriate public health agency.

(a) If the patient's address is not known by the submitting or forwarding entity, the submitting or forwarding entity shall provide the performing laboratory with the name and address of the facility where the specimen originated.

(4) Entities shall reference <http://health.utah.gov/epi/reporting>, or contact the Department at (801) 538-6191, for additional reporting specifications, including technical documents, reporting forms, and protocols.

(5) Full reporting of all relevant patient information is authorized when reporting events listed in Subsection R386-702-3(8) to public health.

(a) Entities shall include in reports at least the following information, if known:

- (i) Name of the facility;
- (ii) A patient identifier;
- (iii) Date of visit;
- (iv) Time of visit;
- (v) Patient's age;
- (vi) Patient's gender;
- (vii) Zip code of patient's residence;
- (viii) Chief complaint(s), reason for visit, and/or diagnosis;

and

- (ix) Whether the patient was admitted to the hospital.

R386-702-8. Confidentiality of Reports.

(1) All reports required by this rule are confidential and are not open to public inspection. All information collected pursuant to this rule shall not be released or made public, except as provided by Section 26-6-27. Penalties for violation of confidentiality are prescribed in Section 26-6-29.

(2) Nothing in this rule precludes the discussion of case information with an attending clinician or public health workers.

(3) Good Samaritans

(a) The Department or local health department shall disclose communicable disease-related information regarding the person who was assisted to the medical provider of a Good Samaritan when that medical provider submits a request to the Department or local health department. The request must include:

(i) Information regarding the occurrence of the accident, fire, or other life-threatening emergency;

(ii) A description of the exposure risk to the Good Samaritan; and

(iii) Contact information for the Good Samaritan and their medical provider.

(b) The Department or local health department will ensure that the disclosed information:

(i) Includes enough detail to allow for appropriate education and follow-up to the Good Samaritan; and

(ii) Ensures confidentiality is maintained for the person who was aided.

(c) No identifying information will be shared with the Good Samaritan or their medical provider regarding the person who was assisted. The Good Samaritan shall receive written information warning them that information regarding the person who was assisted is protected by state law.

R386-702-9. Non-Compliance with Reporting Regulations.

(1) Any person who violates any provision of Section R386-702 may be assessed a penalty as provided in Section 26-23-6.

(a) Willful non-compliance may result in the Department working with other agencies to incur penalties which may include loss of accreditation or licensure.

(2) Records maintained by reporting entities are subject to review by Department personnel to assure the completeness and accuracy of reporting.

(3) If public health conducts a surveillance project, such as assessing the completeness of case finding or assessing another measure of data quality, the Department may, at its discretion, waive any penalties for participating entities if cases are found that were not originally reported for whatever reason.

R386-702-10. Information Necessary for Public Health Investigation and Surveillance.

(1) Reporting entities shall provide the Department or local health department with any records or other materials requested by public health that are necessary to conduct a thorough investigation.

(a) This includes, but is not limited to, medical records, additional laboratory testing results, treatment and vaccination history, clinical material, or contact information for cases, suspect cases, or persons potentially exposed.

(b) The Department or local health department shall be granted on-site access to a facility, when such access is critical to a public health investigation.

R386-702-11. General Measures for the Control of Communicable Diseases.

(1) The local health department shall maintain all reportable disease records as needed to enforce Chapter 6 of the Health Code and this rule, or as requested by the Utah Department of Health.

(2) General Control Measures for Reportable Diseases.

(a) The local health department shall, when an unusual or rare disease occurs in any part of the state or when any disease becomes so

prevalent as to endanger the state as a whole, contact the Bureau of Epidemiology, Utah Department of Health for assistance, and shall cooperate with the representatives of the Utah Department of Health.

(b) The local health department shall investigate and control the causes of epidemic, infectious, communicable, and other disease affecting the public health. The local health department shall also provide for the detection, reporting, prevention, and control of communicable, infectious, and acute diseases that are dangerous or important or that may affect the public health. The local health department may require physical examination and measures to be performed as necessary to protect the health of others.

(c) If, in the opinion of the local health officer it is necessary or advisable to protect the public's health that any person shall be kept from contact with the public, the local health officer shall establish, maintain and enforce involuntary treatment, isolation and quarantine as provided by Section 26-6-4. Control measures shall be specific to the known or suspected disease agent. Guidance is available from the Bureau of Epidemiology, Utah Department of Health or official reference listed in R386-702-18.

(3) Prevention of the Spread of Disease From a Case.

The local health department shall take action and measures as may be necessary within the provisions of Section 26-6-4; Title 26, Chapter 6b; and this rule, to prevent the spread of any communicable disease, infectious agent, or any other condition which poses a public health hazard. Action shall be initiated upon discovery of a case or upon receipt of notification or report of any disease.

(4) Prevention of the Spread of Disease or Other Public Health Hazard.

A case, suspected case, carrier, contact, other person, or entity (e.g. facility, hotel, organization) shall, upon request of a public health authority, promptly cooperate during:

(a) An investigation of the circumstances or cause of a case, suspected case, outbreak, or suspected outbreak.

(b) The carrying out of measures for prevention, suppression, and control of a public health hazard, including, but not limited to, procedures of restriction, isolation, and quarantine.

(5) Public Food Handlers.

A person known to be infected with a communicable disease that can be transmitted by food or drink products, or who is suspected of being infected with such a disease, may not engage in the commercial handling of food or drink products, or be employed on any premises handling those types of products, unless those products are packaged off-site and remain in a closed container until purchased for consumption, until the person is determined by the local health department to be free of communicable disease, or incapable of transmitting the infection.

(6) Communicable Diseases in Places Where Food or Drink Products are Handled or Processed.

If a case, carrier, or suspected case of a disease that can be conveyed by food or drink products is found at any place where food or drink products are handled or offered for sale, or if a disease is found or suspected to have been transmitted by these food or drink products, the local health department may immediately prohibit the sale, or removal of drink and all other food products from the premises. Sale or distribution of food or drink products from the premises may be resumed when measures have been taken to eliminate the threat to health from the product and its processing as prescribed by R392-100.

(7) Request for State Assistance.

If a local health department finds it is not able to completely comply with this rule, the local health officer or his representative shall request the assistance of the Utah Department of Health. In such circumstances, the local health department shall provide all required

information to the Bureau of Epidemiology. If the local health officer fails to comply with the provisions of this rule, the Utah Department of Health shall take action necessary to enforce this rule.

(8) Approved Laboratories.

Laboratory analyses that are necessary to identify the causative agents of reportable diseases or to determine adequacy of treatment of patients with a disease shall be ordered by the physician or other health care provider to be performed in or referred to a laboratory holding a valid certificate under the Clinical Laboratory Improvement Amendments of 1988.

R386-702-12. Special Measures for Control of Rabies.

(1) Rationale of Treatment.

A physician must evaluate individually each exposure to possible rabies infection. The physician shall also consult with local or state public health officials if questions arise about the need for rabies prophylaxis.

(2) Management of Biting Animals.

(a) A healthy dog, cat, or ferret that bites a person shall be confined and observed at least daily for ten days from the date of bite, regardless of vaccination status, as specified by local animal control ordinances. It is recommended that rabies vaccine not be administered during the observation period. Such animals shall be evaluated by a veterinarian at the first sign of illness during confinement. A veterinarian or animal control officer shall immediately report any illness in the animal to the local health department. If signs suggestive of rabies develop, a veterinarian or animal control officer shall direct that the animal be euthanized, its head removed, and the head shipped under refrigeration, not frozen, for examination of the brain by a laboratory approved by the Utah Department of Health.

(b) If the dog, cat, or ferret shows no signs of rabies or illness during the ten day period, the veterinarian or animal control officer shall direct that the unvaccinated animal be vaccinated against rabies at the owner's expense before release to the owner. If a veterinarian is not available, the animal may be released, but the owner shall have the animal vaccinated within 72 hours of release. If the dog, cat, or ferret was appropriately vaccinated against rabies before the incident, the animal may be released from confinement after the 10-day observation period with no further restrictions.

(c) Any stray or unwanted dog, cat, or ferret that bites a person may be euthanized immediately by a veterinarian or animal control officer, if permitted by local ordinance, and the head submitted, as described in R386-702-12(2)(a), for rabies examination. If the brain is negative by fluorescent-antibody examination for rabies, one can assume that the saliva contained no virus, and the person bitten need not be treated.

(d) Wild animals include raccoons, skunks, coyotes, foxes, bats, the offspring of wild animals crossbred to domestic dogs and cats, and any carnivorous animal other than a domestic dog, cat, or ferret.

(e) Signs of rabies in wild animals cannot be interpreted reliably. If a wild animal bites or scratches a person, the person or attending medical personnel shall notify an animal control or law enforcement officer. A veterinarian, animal control officer or representative of the Division of Wildlife Resources shall kill the animal at once, without unnecessary damage to the head, and submit the brain, as described in R386-702-12(2)(a), for examination for evidence of rabies. If the brain is negative by fluorescent-antibody examination for rabies, one can assume that the saliva contained no virus, and the person bitten need not be treated.

(f) Rabbits, opossums, squirrels, chipmunks, rats, and mice are rarely infected and their bites rarely, if ever, call for rabies prophylaxis or testing. Unusual exposures to any animal should be

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reported to the local health department or the Bureau of Epidemiology, Utah Department of Health.

(g) When rare, valuable, captive wild animals maintained in zoological parks approved by the United States Department of Agriculture or research institutions, as defined by Section 26-26-1, bite or scratch a human, the Bureau of Epidemiology, Utah Department of Health shall be notified. The provisions of subsection R386-702-12(2)(e) may be waived by the Bureau of Epidemiology, Utah Department of Health if zoological park operators or research institution managers can demonstrate that the following rabies control measures are established:

(i) Employees who work with the animal have received preexposure rabies immunization.

(ii) The person bitten by the animal voluntarily agrees to accept postexposure rabies immunization provided by the zoological park or research facility.

(iii) The director of the zoological park or research facility shall direct that the biting animal be held in complete quarantine for a minimum of four months for dogs and cats, and six months for ferrets. Quarantine requires that the animal be prohibited from direct contact with other animals or humans.

(h) Any animal bitten or scratched by a wild, carnivorous animal or a bat that is not available for testing shall be regarded as having been exposed to rabies. The animal shall be placed in a strict quarantine for four months for dogs and cats, or six months for ferrets.

(i) For maximum protection of the public health, unvaccinated dogs, cats, and ferrets bitten or scratched by a confirmed or suspected rabid animal shall be euthanized immediately by a veterinarian or animal control officer. If the owner is unwilling to have the animal euthanized, the local health officer shall order that the animal be held in strict isolation in a municipal or county animal shelter or a veterinary medical facility approved by the local health department, at the owner's expense, for at least four months for dogs and cats, and six months for ferrets. The animal shall be vaccinated one month before being released. If any illness suggestive of rabies develops in the animal, the veterinarian or animal control officer shall immediately report the illness to the local health department and the veterinarian or animal control officer shall direct that the animal be euthanized and the head shall be handled as described in subsection R386-702-12(2)(a).

(j) Dogs, cats, and ferrets that are currently vaccinated and are bitten by rabid animals, shall be revaccinated immediately by a veterinarian and confined and observed by the animal's owner for 45 days. If any illness suggestive of rabies develops in the animal, the owner shall report immediately to the local health department and the animal shall be euthanized by a veterinarian or animal control officer and the head shall be handled as described in subsection R386-702-12(2)(a).

(k) Livestock exposed to a rabid animal and currently vaccinated with a vaccine approved by the United States Department of Agriculture for that species shall be revaccinated immediately by a veterinarian and observed by the owner for 45 days. Unvaccinated livestock shall be slaughtered immediately. If the owner is unwilling to have the animal slaughtered, the animal shall be kept under close observation by the owner for six months.

(l) Unvaccinated animals other than dogs, cats, ferrets, and livestock bitten by a confirmed or suspected rabid animal shall be euthanized immediately by a veterinarian or animal control officer.

(3) Testing Fees at Utah Public Health Laboratory (UPHL).

(a) Animals being submitted to UPHL for rabies testing must follow criteria defined in The Compendium of Animal Rabies Prevention and Control to be eligible for testing without a fee. Testing of animals that fit this criteria will be eligible for a waived fee for testing.

Testing of animals that do not meet this criteria will incur a testing fee as set forth by UPHL.

(b) The following situations will not incur a rabies testing fee if testing is ordered for them through UPHL:

(i) Any bat in an instance where a person or animal has had an exposure, or reasonable probability of exposure, including, but not limited to: known bat bites, exposure to bat saliva, a bat found in a room with a sleeping person or unattended child, or a bat found near a child or mentally impaired or intoxicated person.

(ii) Dogs, cats, or ferrets, regardless of rabies vaccination status, if signs suggestive of rabies are documented in them.

(iii) Wild mammals and hybrids that expose persons, pets, or livestock (e.g., skunks, foxes, coyotes, and raccoons) may be tested.

(iv) Livestock may be tested if signs suggestive of rabies are documented.

(v) UDOH Bureau of Epidemiology staff are available to discuss additional situations that may warrant testing at (801) 538-6191.

(c) The following situations will incur a \$95 testing fee if testing is ordered for them through UPHL:

(i) Any stray with unknown or undocumented vaccination history that exposes a person, if signs suggestive of rabies are not documented, or if the animal has not been confined and observed for at least 10 days.

(ii) Dogs, cats, and ferrets: currently vaccinated animals that expose a person, if signs suggestive of rabies are not documented, or animals have not been confined and observed for at least 10 days.

(iii) Regardless of rabies vaccination status, a healthy dog, cat, or ferret that has not exposed a person.

(iv) Small rodents (e.g., rats, mice, squirrels, chipmunks, voles, or moles) and lagomorphs (rabbits and hares).

(v) Incomplete paperwork accompanying the sample will also result in a fee for testing; a thorough description of the situation must be included with each sample submission.

(vi) UDOH Bureau of Epidemiology staff are available to discuss additional situations that may not warrant testing at (801) 538-6191.

(d) If the submitting party feels they are charged inappropriately for rabies testing, they may send a letter describing the situation and requesting a waiver for fees to the: Utah Department of Health, Bureau of Epidemiology, P.O. Box 142104, Salt Lake City, UT 84114, attention: Zoonotic Diseases Epidemiologist. Information may be submitted electronically via email to: epi@utah.gov, with a note in the subject line "Attention: Zoonotic Diseases Epidemiologist".

(i) The submitting party has 30 days from receipt of the testing fee invoice to file an appeal. The letter must include copies of the original paperwork that was submitted, and a copy of the invoice received, for a waiver to be considered.

(ii) UDOH and UPHL have 30 days to review information after receipt of an appeal request to make an official decision and notify the submitter.

(iii) UDOH Bureau of Epidemiology staff are available to discuss questions about testing fees and the appeal process at (801) 538-6191.

(4) Measures for Standardized Rabies Control Practices.

(a) Humans requiring either pre- or post-exposure rabies prophylaxis shall be treated in accordance with the recommendations of the U.S. Public Health Service Immunization Practices Advisory Committee, as adopted and incorporated by reference in R386-702-18(2). A copy of the recommendations shall be made available to licensed medical personnel, upon request to the Bureau of Epidemiology, Utah Department of Health.

(b) A physician or other health care provider that administers rabies vaccine shall immediately report all serious systemic neuroparalytic or anaphylactic reactions to rabies vaccine through the Vaccine Adverse Event Reporting System (VAERS).

(c) The Compendium of Animal Rabies Prevention and Control, as adopted and incorporated by reference in R386-702-18(5), is the reference document for animal vaccine use.

(d) A county, city, town, or other political subdivision that requires licensure of animals shall also require rabies vaccination as a prerequisite to obtaining a license.

(e) Animal rabies vaccinations are valid only if performed by or under the direction of a licensed veterinarian in accordance with the Compendium of Animal Rabies Prevention and Control.

(f) All agencies and veterinarians administering vaccine shall document each vaccination on the National Association of State Public Health Veterinarians (NASPHV) form number 51, Rabies Vaccination Certificate, which can be obtained from vaccine manufacturers. The agency or veterinarian shall provide a copy of the report to the animal's owner. Computer-generated forms containing the same information are also acceptable.

(g) Animal rabies vaccines may be sold or otherwise provided only to licensed veterinarians or veterinary biologic supply firms. Animal rabies vaccine may be purchased by the Utah Department of Health and the Utah Department of Agriculture.

(5) Measures to Prevent or Control Rabies Outbreaks.

(a) The most important single factor in preventing human rabies is the maintenance of high levels of immunity in the pet dog, cat, and ferret populations through vaccination.

(i) All dogs, cats, and ferrets in Utah should be immunized against rabies by a licensed veterinarian; and

(ii) Local governments should establish effective programs to ensure vaccination of all dogs, cats, and ferrets and to remove strays and unwanted animals.

(b) If the Utah Department of Health determines that a rabies outbreak is present in an area of the state, the Utah Department of Health may require that:

(i) all dogs, cats, and ferrets in that area and adjacent areas be vaccinated or revaccinated against rabies as appropriate for each animal's age;

(ii) any such animal be kept under the control of its owner at all times until the Utah Department of Health declares the outbreak to be resolved;

(iii) an owner who does not have an animal vaccinated or revaccinated surrender the animal for confinement and possible destruction; and

(iv) such animals found at-large be confined and possibly destroyed.

R386-702-13. Special Measures for Control of Typhoid.

(1) Because typhoid control measures depend largely on sanitary precautions and other health measures designed to protect the public, the local health department shall investigate each case of typhoid and strictly manage the infected individual according to the following outline:

(2) Cases: Standard precautions are required during hospitalization. Use contact precautions for diapered or incontinent patients for the duration of illness. Hospital care is desirable during acute illness. Release of the patient from supervision by the local health department shall be based on three or more negative cultures of feces (and of urine in patients with schistosomiasis) taken at least 24 hours apart. Cultures must have been taken at least 48 hours after antibiotic therapy has ended and not earlier than one month after onset of illness

as specified in R386-702-13(6). If any of these cultures is positive, repeat cultures at intervals of one month during the 12-month period following onset until at least three consecutive negative cultures are obtained as specified in R386-702-13(6). The patient shall be restricted from food handling, child care, and from providing patient care during the period of supervision by the local health department.

(3) Contacts: Administration of typhoid vaccine is recommended for all household members of known typhoid carriers. Household and close contacts of a carrier shall be restricted from food handling, child care, and patient care until two consecutive negative stool specimens, taken at least 24 hours apart, are submitted, or when approval is granted by the local health officer according to local jurisdiction.

(4) Carriers: If a laboratory or physician identifies a carrier of typhoid, the attending physician shall immediately report the details of the case by telephone to the local health department or the Bureau of Epidemiology, Utah Department of Health using the process described in R386-702-6. Each infected individual shall submit to the supervision of the local health department. Carriers are prohibited from food handling, child care, and patient care until released in accordance with R386-702-13(4)(a) or R386-702-13(4)(b). All reports and orders of supervision shall be kept confidential and may be released only as allowed by Subsection 26-6-27(2)(c).

(a) Convalescent Carriers: Any person who harbors typhoid bacilli for three but less than 12 months after onset is defined as a convalescent carrier. Release from occupational and food handling restrictions may be granted at any time from three to 12 months after onset, as specified in R386-702-13(6).

(b) Chronic Carriers: Any person who continues to excrete typhoid bacilli for more than 12 months after onset of typhoid is a chronic carrier. Any person who gives no history of having had typhoid or who had the disease more than one year previously, and whose feces or urine are found to contain typhoid bacilli is also a chronic carrier.

(c) Other Carriers: If typhoid bacilli are isolated from surgically removed tissues, organs, including the gallbladder or kidney, or from draining lesions such as osteomyelitis, the attending physician shall report the case to the local health department or the Bureau of Epidemiology, Utah Department of Health. If the person continues to excrete typhoid bacilli for more than 12 months, he is a chronic carrier and may be released after satisfying the criteria for chronic carriers in R386-702-13(6).

(5) Carrier Restrictions and Supervision: The local health department shall report all typhoid carriers to the Bureau of Epidemiology, and shall:

(a) Require the necessary laboratory tests for release;

(b) Issue written instructions to the carrier;

(c) Supervise the carrier.

(6) Requirements for Release of Convalescent and Chronic Carriers: The local health officer or his representative may release a convalescent or chronic carrier from occupational and food handling restrictions only if at least one of the following conditions is satisfied:

(a) For carriers without schistosomiasis, three consecutive negative cultures obtained from fecal specimens authenticated by the attending physician, hospital personnel, laboratory personnel, or local health department staff taken at least one month apart and at least 48 hours after antibiotic therapy has stopped;

(b) for carriers with schistosomiasis, three consecutive negative cultures obtained from both fecal and urine specimens authenticated by the attending physician, hospital personnel, laboratory personnel, or local health department staff taken at least one month apart and at least 48 hours after antibiotic therapy has stopped;

(c) the local health officer or his representative determine that additional treatment such as cholecystectomy or nephrectomy has terminated the carrier state; or

(d) the local health officer or his representative determines the carrier no longer presents a risk to public health according to the evaluation of other factors.

R386-702-14. Special Measures for the Control of Ophthalmia Neonatorum.

Every physician or midwife practicing obstetrics or midwifery shall, within three hours of the birth of a child, instill or cause to be instilled in each eye of such newborn one percent silver nitrate solution contained in wax ampules, or tetracycline ophthalmic preparations or erythromycin ophthalmic preparations, as these are the only antibiotics of currently proven efficacy in preventing development of ophthalmia neonatorum. The value of irrigation of the eyes with normal saline or distilled water is unknown and not recommended.

R386-702-15. Special Measures for the Control of HIV/AIDS.

(1) Partner identification and notification:

(a) If an individual is tested and found to have an HIV infection, the Department and/or local health department shall provide partner services, linkage-to-care activities, and promote retention to HIV care.

(2) Definitions:

(a) "Partner" is defined as any individual, including a spouse, who has shared needles, syringes, or drug paraphernalia or who has had sexual contact with an HIV infected individual.

(b) "Spouse" is defined as any individual who is the marriage partner of that person at any time within the ten-year period prior to the diagnosis of HIV infection.

(c) "Linkage to care" is defined by a reported CD4+ T-Lymphocyte test and/or HIV viral load determination within three months of HIV positive diagnosis.

(d) "Retention to care" is defined by a reported CD4+ T-Lymphocyte test or HIV viral load determination once within a 12-month period.

(3) Partner services include:

(a) Confidential partner notification within 30 days of receiving a positive HIV result or when relevant additional information is found to aide in an investigation or case management;

(b) Prevention counseling;

(c) Testing for HIV;

(d) Providing recommendations for testing for other sexually transmitted diseases;

(e) Providing recommendations for hepatitis screening and vaccination;

(f) Treatment or linkage to medical care on an ongoing basis, as needed; and

(g) Linkage or referral to other prevention services and support.

(4) Re-engagement to care includes:

(a) Linkage to medical care, on an ongoing basis, as needed;

(b) Linkage or referral to other prevention services and support;

(c) Confidential partner notification, as needed;

(d) Prevention counseling;

(e) Providing recommendations for testing for other sexually transmitted diseases;

(f) Providing recommendations for hepatitis screening and vaccination;

(g) Medication adherence counseling; and

(h) Risk reduction counseling.

R386-702-16. Special Measures to Prevent Perinatal and Person-to-Person Transmission of Hepatitis B Infection.

(1) A licensed healthcare provider who provides prenatal care shall routinely test each pregnant woman for hepatitis B surface antigen (HBsAg) at an early prenatal care visit. The provisions of this section do not apply if the pregnant woman, after being informed of the possible consequences, objects to the test on the basis of religious or personal beliefs.

(2) The licensed healthcare provider who provides prenatal care shall repeat the HBsAg test during late pregnancy for those women who tested negative for HBsAg during early pregnancy, but who are at high risk based on:

(a) evidence of clinical hepatitis during pregnancy;

(b) injection drug use;

(c) occurrence during pregnancy or a history of a sexually transmitted disease;

(d) occurrence of hepatitis B in a household or close family contact; or

(e) the judgment of the healthcare provider.

(3) In addition to other reporting required by this rule, each positive HBsAg result detected in a pregnant woman shall be reported to the local health department or the Department, as specified in Section 26-6-6. That report shall indicate that the woman was pregnant at time of testing if that information is available to the reporting entity.

(4) A licensed healthcare provider who provides prenatal care shall document a woman's HBsAg test results, or the basis of the objection to the test, in the medical record for that patient.

(5) Every hospital and birthing facility shall develop a policy to assure that:

(a) when a pregnant woman is admitted for delivery, or for monitoring of pregnancy status, the result from a test for HBsAg performed on that woman during that pregnancy is available for review and documented in the hospital record;

(b) when a pregnant woman is admitted for delivery, if the woman's test result is not available to the hospital or birthing facility, the mother is tested for HBsAg as soon as possible, but before discharge from the hospital or birthing facility;

(c) if a pregnant woman who has not had prenatal care during that pregnancy is admitted for monitoring of pregnancy status only, and if the woman's test result is not available to the hospital or birthing facility, the mother is tested for HBsAg status before discharge from the hospital or birthing facility;

(d) positive HBsAg results identified by testing performed or documented during the hospital stay are reported as specified in this rule;

(e) infants born to HBsAg positive mothers receive hepatitis B immune globulin (HBIG) and hepatitis B vaccine, administered at separate injection sites, within 12 hours of birth;

(f) infants born to mothers whose HBsAg status is unknown receive hepatitis B vaccine within 12 hours of birth, and if the infant is born preterm with birth weight less than 2,000 grams, that infant also receives HBIG within 12 hours; and

(g) if at the time of birth the mother's HBsAg status is unknown and the HBsAg test result is later determined to be positive, that infant receives HBIG as soon as possible but within 7 days of birth.

(h) hepatitis B immune globulin (HBIG) administration and birth dose hepatitis B vaccine status of infants born to mothers who are HBsAg-positive are reported within 24 hours of delivery to the local health department and Utah Department of Health Immunization Program at (801) 538-9450.

(6) Local health departments shall perform the following activities or assure that they are performed:

(a) All females between the ages of 12 and 50 years at the time an HBsAg positive test result is reported will be screened for pregnancy status within one week of receipt of that lab result.

(b) Infants born to HBsAg positive mothers complete the hepatitis B vaccine series as specified in the most current version of "The Red Book" as cited in R386-702-13 (4).

(c) Children born to HBsAg positive mothers are tested for HBsAg and antibody against hepatitis B surface antigen (anti-HBs) at 9 to 12 months of age (testing is done at least one month after the final dose of hepatitis B vaccine series is administered, and no earlier than 9 months of age) to monitor the success of therapy and identify cases of perinatal hepatitis B infection.

(i) Children who test negative for HBsAg and do not demonstrate serological evidence of immunity against hepatitis B when tested as described in (c) receive three additional vaccine doses and are retested as specified in the most current version of "The Red Book" as cited in R386-702-18 (4).

(d) HBsAg positive mothers are advised regarding how to reduce their risk of transmitting hepatitis B to others.

(e) Household members and sex partners of HBsAg positive mothers are evaluated to determine susceptibility to hepatitis B infection and if determined to be susceptible, are offered or advised to obtain vaccination against hepatitis B.

(i) All identified acute hepatitis B cases shall be investigated by the local health department, and identified household and sexual contacts shall be advised to obtain vaccination against hepatitis B.

(7) The provisions of subsections (5) and (6) do not apply if the pregnant woman or the child's guardian, after being informed of the possible consequences, objects to any of the required procedures on the basis of religious or moral beliefs. The hospital or birthing facility shall document the basis of the objection.

(8) Prevention of transmission by individuals with chronic hepatitis B infection.

(a) The Department defines a chronic hepatitis B case as a person that is HBsAg positive, total antibody against hepatitis B core antigen (anti-HBc) positive (if performed) and IgM anti-HBc negative.

(b) An individual with chronic hepatitis B infection shall be advised regarding how to reduce the risk that the individual will transmit hepatitis B to others.

(c) Household members and sex partners of individuals with chronic hepatitis B infection shall be evaluated to determine susceptibility to hepatitis B infection, and if determined to be susceptible, shall be offered or advised to obtain vaccination against Hepatitis B.

R386-702-17. Public Health Emergency.

(1) Declaration of Emergency: With the Governor's and Executive Director's or in the absence of the Executive Director, his designee's, concurrence, the Department or a local health department may declare a public health emergency by issuing an order mandating reporting emergency illnesses or health conditions specified in sections R386-702-3 for a reasonable time.

(2) For purposes of an order issued under this section and for the duration of the public health emergency, the following definitions apply.

(a) "emergency center" means:

(i) a health care facility licensed under the provisions of Chapter 26-21 that operates an emergency department; or

(ii) a clinic that provides emergency or urgent health care to an average of 20 or more persons daily.

(b) "encounter" means an instance of an individual presenting at the emergency center who satisfies the criteria in section R386-702-3(2); and

(c) "diagnostic information" means an emergency center's records of individuals who present for emergency or urgent treatment, including the reason for the visit, chief complaint, results of diagnostic tests, presenting diagnosis, and final diagnosis, including diagnostic codes.

(3) Reporting Encounters: The Department shall designate the fewest number of emergency centers as is practicable to obtain the necessary data to respond to the emergency.

(a) Designated emergency centers shall report using the process described in R386-702-6.

(b) An emergency center designated by the Department shall report the encounters to the Department by:

(i) allowing Department representatives or agents, including local health department representatives, to review its diagnostic information to identify encounters during the previous day; or

(ii) reviewing its diagnostic information on encounters during the previous day and reporting all encounters by 9:00 a.m. the following day, or

(iii) identifying encounters and submitting that information electronically to the Department, using a computerized analysis method, and reporting mechanism and schedule approved by the Department; or

(iv) by other arrangement approved by the Department.

(4) For purposes of epidemiological and statistical analysis, the emergency center shall report on encounters during the public health emergency that do not meet the definition for a reportable emergency illness or health condition. The report shall be made using the process described in R386-702-6 and shall include the following information for each such encounter:

(a) facility name;

(b) date of visit;

(c) time of visit;

(d) patient's age;

(e) patient's sex;

(f) patient's zip code for patient's residence.

(5) If either the Department or a local health department collects identifying health information on an individual who is the subject of a report made mandatory under this section, it shall destroy that identifying information upon the earlier of its determination that the information is no longer necessary to carry out an investigation under this section or 180 days after the information was collected. However, the Department and local health departments shall retain identifiable information gathered under other sections of this rule or other legal authority.

(6) Reporting on encounters during the public health emergency does not relieve a reporting entity of its responsibility to report under other sections of this rule or other legal authority.

R386-702-18. Official References.

All treatment and management of individuals and animals who have or are suspected of having a communicable or infectious disease that must be reported pursuant to this rule shall comply with the following documents, which are adopted and incorporated by reference:

(1) American Public Health Association. "Control of Communicable Diseases Manual". 20th ed., Heymann, David L., editor, 2015.

(2) Centers for Disease Control and Prevention. "Human Rabies Prevention---United States, 2008: Recommendations of the Advisory Committee on Immunization Practices." *Morbidity and Mortality Weekly Report*. 57 (RR03) (2008):1-26, 28.

NOTICES OF 120-DAY (EMERGENCY) RULES

(3) National Association of State Public Health Veterinarians Committee. "Compendium of Animal Rabies Prevention and Control, 2016." Naspvh.org. National Association of State Public Health Veterinarians, 18 October 2016. Web. <http://naspvh.org/Documents/NASPHVRabiesCompendium.pdf>

(4) American Academy of Pediatrics. "Red Book: 2018-2021 Report of the Committee on Infectious Diseases" 30th Edition. Elk Grove Village, IL, American Academy of Pediatrics; 2018.

(5) National Association of State Public Health Veterinarians Animal Contact Compendium Committee 2017. "Compendium of Measures to Prevent Disease Associated with Animals in Public Settings, 2017." Journal of the American Veterinary Medicine Association 243 (2017): 1269-292.

KEY: communicable diseases, quarantines, rabies, rules and procedures

Date of Enactment or Last Substantive Amendment: May 15, 2020

Notice of Continuation: April 15, 2016

Authorizing, and Implemented or Interpreted Law: 26-1-30; 26-6-3; 26-23b

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R547-13	Filing No. 52753

Agency Information

1. Department:	Human Services	
Agency:	Juvenile Justice Services	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Jonah Shaw	801-538-4219	jshaw@utah.gov
Nate Winters	801-538-4312	natewinters@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R547-13. Guidelines for Admission to Secure Youth Detention Facilities
3. Effective Date:
05/12/2020
4. Purpose of the new rule or reason for the change:
H.B. 262, passed in the 2020 General Session, changed the law to prohibit the prosecution of children under 12 years old except for certain offenses. In accordance with this statute change, the Division of Juvenile Justice

Services (Division) is changing the detention guidelines to reflect this bill, and clarifying some other aspects of detention, home detention, and diversion programs.

5. Summary of the new rule or change:

This emergency filing amends the detention guidelines to reflect H.B. 262 (2020) while clarifying some other aspects of detention, home detention, and diversion programs.

6. Regular rulemaking would:

cause an imminent peril to the public health, safety, or welfare;

cause an imminent budget reduction because of budget restraints or federal requirements; or

X place the agency in violation of federal or state law.

Specific reason and justification:

With the passage of H.B. 262 (2020), effective date of May 12, 2020, this emergency rule filing will need to be in place to support the statute change. An amendment will be filed simultaneously for ongoing practice.

Fiscal Information

7. Aggregate anticipated cost or savings to:

A) State budget:

The implementation of these standards may provide a net savings of \$128,100 ongoing from the General Fund beginning in Fiscal Year (FY) 2021 (July 1, 2020). Due to reduced case processing, it is estimated that the Division may see a savings of \$73,100 and the Courts may see a \$55,000 ongoing savings. These savings were already captured by the legislature.

B) Local governments:

The standards set forth through this rule may save local governments an inestimable amount due to reduced prosecution and defense costs.

C) Small businesses ("small business" means a business employing 1-49 persons):

Small businesses will not see a fiscal impact as these practices do not impact small businesses.

D) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an *agency*):

It is not estimated that persons other than small businesses, non-small businesses, state, or local government entities, will see a fiscal impact as these changes will not impact the practices in place for this population.

8. Compliance costs for affected persons:

No compliance costs are anticipated for affected persons.
9. A) Comments by the department head on the fiscal impact this rule may have on businesses:
After conducting a thorough analysis, it has been determined that this proposed emergency amendment will result in a fiscal impact.
B) Name and title of department head commenting on the fiscal impacts:
Ann Williamson, Executive Director

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):
Section 62A-1-111 Section 78A-6-105

Agency Authorization Information

Agency head or designee, and title:	Ann Williamson, Executive Director	Date:	05/08/2020
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R547. Human Services, Juvenile Justice Services.

R547-13. Guidelines for Admission to Secure Youth Detention Facilities.

R547-13-1. Authority.

Section 62A-1-111 authorizes the Department of Human Services to adopt administrative rules.

R547-13-2. Purpose and Scope.

(1) This rule establishes guidelines for admission to secure detention to meet the requirements of Section 62A-7-202.

(2) This rule shall be applied to youth candidates for placement in all secure detention facilities operated by the Division of Juvenile Justice Services.

R547-13-3. Definitions.

(1) Terms used in this rule are defined in Sections 62A-7-101 and 78A-6-105.

(2) "Status offense" means a violation of the law that would not be a violation but for the age of the offender.

(3) "Youth" means a person age 10 or over and under the age of 21.

R547-13-4. General Rules.

(1) ~~[A youth age 10 or 11 may be detained in a secure detention facility if arrested for any felony violation of Section 76-3-203.5(c), violent felony.]~~ A youth under the age of 12 may not be detained in a secure detention facility, unless the youth is arrested for any of the following state or federal equivalent criminal offenses:

- (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
- (b) Section 76-5-202, aggravated murder or attempted aggravated murder;
- (c) Section 76-5-203, murder or attempted murder;
- (d) Section 76-5-302, aggravated kidnapping;
- (e) Section 76-5-405, aggravated sexual assault;

- (f) Section 76-6-103, aggravated arson;
- (g) Section 76-6-203, aggravated burglary;
- (h) Section 76-6-302, aggravated robbery; or
- (i) Section 76-10-508.1, felony discharge of a firearm.
- (2) Notwithstanding subsection (1) of this rule, no youth under the age of 10 may be detained in a secure detention facility.
- (3[2]) A youth age 12 or over may be detained in a secure detention facility if:
 - (a) A youth is arrested for any of the following state or federal equivalent criminal offenses:
 - (i) Any offense which would be a felony if committed by an adult;
 - (ii) Any attempt, conspiracy, or solicitation to commit a felony offense;
 - (iii) Any class A misdemeanor violation of 76-5 Part 1, offense against the person; assault and related offenses;
 - (iv) Any class A or B misdemeanor violation of 76-10 Part 5, offenses against public health, safety, welfare, and morals; weapon offenses;
 - (v) A class A misdemeanor violation of Section 76-5-206, negligent homicide;
 - (vi) A class A misdemeanor violation of Section 58-37-8(1)(b)(iii), a controlled substance violation;
 - (vii) Any criminal offense defined as domestic violence (cohabitant) by 77-36-1(4), and 78B-7-102(2) and (3);
 - (viii) A class A or B misdemeanor violation of Section 76-6-104(1)(a) or (b), reckless burning which endangers human life;
 - (ix) A class A misdemeanor violation of Section 76-6-105, causing a catastrophe;
 - (x) A class A misdemeanor violation of Section 76-6-106(2)(b)(i)(a), criminal mischief involving tampering with property that endangers human life;
 - (xi) A class A misdemeanor violation of Section 76-6-406, theft by extortion;
 - (xii) A class A misdemeanor violation of Section 76-9-702.1, sexual battery;
 - (xiii) A class A misdemeanor violation of Section 76-5-401.3(2)(c) or (d), unlawful adolescent sexual activity;
 - (xiv) A class A misdemeanor violation of Section 76-9-702.5, lewdness involving a child;
 - (xv) A class A misdemeanor violation of Section 76-9-702.7(1), voyeurism with recording device;
 - (xvi) A class A misdemeanor violation of Section 41-6A-401.3(2), leaving the scene of an accident involving injury; and
 - (xvii) A class A misdemeanor violation of Section 41-6A-503(1)(b)(i) or (ii), driving under the influence involving injury; driving under the influence with a passenger under 16 years of age.
 - (b) The youth is an escapee or absconder from a Juvenile Justice Services secure facility or community placement.
 - (c) The youth has been verified as a fugitive (absconder from probation or parole) or a runaway from another state and a formal request has been received (such as a TWX/National Crime Information Center (NCIC) or a telephone call/FAX/email from a law enforcement officer or a verified call/FAX/email from the institution) to hold, pending return to the other jurisdiction, whether or not an offense is currently charged.
- (4[3]) A youth not otherwise qualified for admission to a secure detention facility shall not be detained for any of the following:
 - (a) ungovernable or runaway behavior;
 - (b) neglect, abuse, abandonment, dependency, or other status requiring protection for any other reason;

NOTICES OF 120-DAY (EMERGENCY) RULES

(c) status offenses such as curfew, possession/consumption of alcohol, tobacco, minor-in-a-tavern, truancy; or
(d) attempted suicide.

~~(4) No youth under the age of ten years may be detained in a secure detention facility.~~

R547-13-5. Juvenile Court Warrants for Custody or Pickup Orders.

A youth shall be admitted to a secure detention facility when a juvenile court judge or commissioner has issued a warrant for custody.

R547-13-6. Juvenile Justice Services' Cases.

A youth who is on parole or involved in a trial placement from a secure facility, and who is detained solely on a warrant from the Division of Juvenile Justice Services may be held in a secure detention facility up to 48 hours excluding weekends and legal holidays.

R547-13-7. DCFS Cases.

A youth in the custody or under the supervision of the Division of Child and Family Services (DCFS) cannot be held in a secure detention facility unless the youth qualifies for detention under some section of this rule.

R547-13-8. Traffic Cases.

A youth brought to detention for traffic violation(s) cannot be held in a secure detention facility unless the youth qualifies for detention under some section of this rule.

R547-13-9. Interstate Cases.

(1) Out-of-state youth who are escapees, absconders, and runaways shall be detained in accordance with the provisions of Subsection R547-13-4(2)(c).

(2) Youth who are out-of-state runaways who commit any non-status criminal offense(s) may be admitted to a secure detention facility.

(3) Out-of-state, non-runaway youth, when brought to a secure detention facility with an alleged criminal offense, may be detained or released based on the same criteria which applies to resident youth.

R547-13-10. Immigration Cases.

A youth may be detained at a secure detention facility when a lawful detainer or order is presented by United States Immigration and Customs Enforcement (ICE).

R547-13-11. AWOL Military Personnel.

Absent without leave (AWOL) military personnel who are minors shall be admitted to a secure detention facility.

R547-13-12. Home Detention.

(1) In accordance with 62A-7-202, the division establishes the following guidelines for use of home detention:

(2) Home Detention, is a court ordered program that is an alternative to being placed into secure detention. The youth and parent or guardian shall sign the home detention rules and expectations prior to being released from secure detention.

(3) JJS staff will monitor the youth's compliance to the Home Detention rules and expectations and additional "special conditions" ordered by the Juvenile Court.

(4) JJS will provide Probation weekly updates on the youth's behavior and compliance on Home Detention.

R547-13-13[2]. Home Detention [Cases]Violations.

(1) If a home detention violation is alleged, the home detention counselor may cause the alleged violator to be brought to a secure detention facility, request a warrant for custody, or request an expedited detention hearing to review the violations.

(2) If the case involves a violator who is a runaway where a pickup order (Warrant for Custody) has not yet been issued, a law enforcement officer may bring the violator to a secure detention facility. The home detention counselor may then transfer the minor back to the status of home detention, if appropriate, or may authorize the youth to be held in secure detention for a re-hearing.

(3[2]) A youth placed on home detention who is arrested by a law enforcement officer for an alleged non-status criminal offense[~~(s)~~] shall be admitted to a secure detention facility.

R547-13-14[3]. Probation Violation - Contempt of Court - Stayed Order for Detention.

A youth may be admitted to a secure detention facility for conditions such as: an alleged probation violation, contempt of court, or a stayed order for detention when it has been ordered by a judge. When it is not possible to get a written order, verbal authorization from a judge to detention is sufficient to hold a youth in a secure detention facility.

R547-13-15[4]. Other Court Orders for Detention.

A youth brought to a secure detention facility pursuant to either federal or out-of-state court orders shall be admitted unless otherwise directed by a juvenile court judge.

R547-13-16. Detention Risk Assessment Tool.

(1) All youth who meet the detention admission guidelines shall receive the "Detention Risk Assessment Tool" (DRAT) to inform placement decisions. Youth that score below the cutoff on the DRAT will be "diverted" and not admitted to locked detention.

(2) Youth and parent or guardian will sign an "Alternative to Detention Contract" (ADC) prior to leaving detention. If the parent or guardian is unavailable, the youth will sign the ADC and be transported to the local Youth Services Center.

(3) JJS staff will create a supervision plan based on the youth's recent behavior in the community, school and home. The level of supervision may include the following based on the current needs: commitment to appear:

(a) parent or guardian restrictions;

(b) JJS staff supervision; and

(c) youth services crisis residential.

(4) Youth and parent or guardian will be given a commitment to appear at all meetings with Probation and the Juvenile Court, and the youth's behavior and compliance to the contract will be reported to the Juvenile Court.

R547-13-17. Authority of the Division.

To the extent permitted by this Rule and by law, the Director has full authority to limit or adjust individual admissions to a secure detention facility.

KEY: juvenile corrections, juvenile detention, admission guidelines, juvenile justice services

Date of Enactment or Last Substantive Amendment: May 12, 2020

Notice of Continuation: March 27, 2017

Authorizing, and Implemented or Interpreted Law: 62A-7-202; 78A-6-112; 78A-6-113

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R597-3-3	Filing No. 52759

Agency Information

1. Department:	Judicial Performance Evaluation Commission	
Agency:	Administration	
Building:	Utah State Capitol, Senate Building, Suite 330	
Mailing address:	PO Box 142330	
City, state, zip:	Salt Lake City, UT 84114-2330	
Contact person(s):		
Name:	Phone:	Email:
Jennifer Yim		jyim@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:	R597-3-3. Courtroom Observation
3. Effective Date:	05/12/2020
4. Purpose of the new rule or reason for the change:	The reason for this change is physical restrictions created by COVID-19, and the inability to perform courtroom observations.
5. Summary of the new rule or change:	Due to the physical restrictions created by COVID-19, courtroom observations are currently not available. This emergency rule is to allow for alternative courtroom observation options.
6. Regular rulemaking would:	<input checked="" type="checkbox"/> cause an imminent peril to the public health, safety, or welfare; <input type="checkbox"/> cause an imminent budget reduction because of budget restraints or federal requirements; or <input checked="" type="checkbox"/> place the agency in violation of federal or state law.
Specific reason and justification:	Courtroom observation is required as part of the judicial performance reviews.

Fiscal Information

7. Aggregate anticipated cost or savings to:	
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A) State budget:

This change will save state monies paid to courtroom observers to reimburse travel. Total savings will depend on the ability of the court system to return to in-person hearings, both percentage of return and time of return. At its current rate, at the current in-person court hearing rate, savings is approximately \$53.42 per observation. If the rate remains constant through the end of Judicial Performance Evaluation Commission's (JPEC's) evaluation period, state budget savings is estimated at \$13,675.52.

B) Local governments:

There are no anticipated costs or savings to local governments. Local governments have been given access to the technology required to conduct online hearings and make them available to the public electronically by the Utah State Courts.

C) Small businesses ("small business" means a business employing 1-49 persons):

There are no anticipated costs or savings to small businesses. Small businesses do not participate in this process.

D) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an *agency*):

There are no anticipated costs or savings to persons other than small businesses, non-small business, state or local government entities. Persons other than those listed do not participate in this process.

8. Compliance costs for affected persons:

There are no anticipated compliance costs for affected persons. Local governments have been given access to the technology required to conduct online hearings and make them available to the public electronically by the Utah State Courts.

9. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There are no anticipated fiscal impacts that this rule change is expected to have on businesses.

B) Name and title of department head commenting on the fiscal impacts:

Jennifer Yim, Executive Director

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following

state and federal laws. State code or constitution citations (required):		
Section 78A-12-201	Section 78A-12-204	Section 78A-12-202
Section 78A-12-203	Section 78A-12-205	Section 78A-12-206

Agency Authorization Information

Agency head or designee, and title:	Dave Roth, Chairperson	Date:	05/12/2020
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R597. Judicial Performance Evaluation Commission, Administration.

R597-3. Judicial Performance Evaluations.

R597-3-3. Courtroom Observation.

(1) Courtroom observations shall be conducted according to the evaluation cycles described in R597-3-1(1) and R597-3-1(2).

(2) Courtroom observers shall be volunteers, recruited by the commission through public outreach and advertising.

(3) For the purpose of courtroom observation, commission staff shall:

(a) notify each judge at the beginning of each survey cycle of the courtroom observation process and of the observation instrument to be used by the courtroom observers; and

(b) select courtroom observers based on written applications and an interview process.

(4) Only the summary of the individual courtroom observation reports shall be included in the retention report published for each judge.

(5) Individuals with a broad and varied range of life experiences shall be sought to volunteer as courtroom observers, except that the following individuals may be excluded from eligibility:

(a) individuals who currently have, or have previously had, professional or personal involvement with the court system, or the judge;

(b) individuals with a fiduciary relationship with the judge;

(c) individuals within a third degree of relationship with a state or justice court judge (grandparents, parents or parents-in-law, aunts or uncles, children, nieces and nephews and their spouses);

(d) individuals lacking computer access or basic computer literacy skills;

(e) individuals currently involved in litigation in state or justice courts; or

(f) individuals whose background or experience suggests they may have a bias that would prevent them from objectively serving in the courtroom observation program.

(6) Courtroom observers shall:

(a) serve at the will of the commission staff;

(b) refrain from disclosing the content of their courtroom evaluations in any form or to any person except as designated by the commission;

(c) satisfactorily complete a courtroom observation training program developed by the commission before engaging in courtroom observation;

(d) conduct ~~in-person~~ courtroom observations of in-court proceedings for each judge they are assigned to observe, for a minimum of two hours ~~while court is in session~~; and

(e) upon completion of the observation of a judge, complete the observation instrument, which will be electronically transferred to commission staff.

(7) Courtroom observations may be completed in one sitting or over several courtroom ~~visits~~ calendars.

(8) For the evaluation of judges eligible for retention in 2022 and 2024, courtroom observations may be conducted in-person, using web conferencing, live-streamed video, pre-recorded video, audio recordings, or a combination of methods as necessary to complete the required number of observations for a judge.

~~(8)9~~ The commission shall develop a courtroom observation training program that shall include:

(a) orientation and overview of commission processes and the courtroom observation program;

(b) classroom training addressing each level of court;

(c) in-court group observations, with subsequent classroom discussions, for each level of court;

(d) training on proper use of the observation instrument;

(e) training on confidentiality and non-disclosure issues; and

(f) such other periodic trainings as are necessary for effective observations.

~~(9)10~~ During each midterm and retention evaluation cycle, a minimum of four different courtroom observers shall observe each judge subject to that evaluation cycle.

~~(10)11~~ Courtroom observers may observe a judge sitting in more than one geographic location or a justice court judge serving in more than one jurisdiction, in any location or combination of locations in which the judge holds court.

~~(11)12~~ Courtroom observers, though volunteers, may be eligible to receive compensation in exchange for successful completion of a specified amount of additional courtroom observation work.

~~(12)13~~ Courtroom observers shall evaluate the judicial behavior observed in court as it relates to procedural fairness by responding in narrative form to principles and behavioral standards which shall include:

(a) neutrality, including but not limited to the judge:

(i) displaying fairness and impartiality toward all court participants;

(ii) acting as a fair and principled decision maker who applies rules consistently across court participants and cases;

(iii) explaining transparently and openly how rules are applied and how decisions are reached; and

(iv) listening carefully and impartially;

(b) respect, including but not limited to the judge:

(i) demonstrating courtesy toward attorneys, court staff, and others in the court;

(ii) treating all people with dignity;

(iii) helping interested parties understand decisions and what the parties must do as a result;

(iv) maintaining decorum in the courtroom;

(v) demonstrating adequate preparation to hear scheduled cases;

(vi) acting in the interests of the parties, not out of demonstrated personal prejudices;

(vii) managing caseload efficiently and demonstrating awareness of the effect of delay on court participants; and

(viii) demonstrating interest in the needs, problems, and concerns of court participants;

(c) voice, including but not limited to the judge:

(i) giving parties the opportunity, where appropriate, to give voice to their perspectives or situations and demonstrating that they have been heard;

(ii) behaving in a manner that demonstrates full consideration of the case as presented through witnesses, arguments, pleadings, and other documents; and

(iii) attending, where appropriate, to the participants' comprehension of the proceedings;

(d) any other questions necessary to help the commission assess the overall performance of the judge with respect to procedural fairness.

KEY: judicial performance evaluations, judges, evaluation cycles, surveys

Date of Enactment or Last Substantive Amendment: May 12, 2020

Authorizing, and Implemented or Interpreted Law: 78A-12

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R597-4-2	Filing No. 52760

Agency Information

1. Department:	Judicial Performance Evaluation Commission	
Agency:	Administration	
Building:	Utah State Capitol, Senate Building, Suite 330	
Mailing address:	PO Box 142330	
City, state, zip:	Salt Lake City, UT 84114-2330	
Contact person(s):		
Name:	Phone:	Email:
Jennifer Yim		jyim@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R597-4-2. Mid-level Evaluation of Justice Court Judges
3. Effective Date:
05/12/2020
4. Purpose of the new rule or reason for the change:
The reason for the change is physical restrictions created by COVID-19, and the inability to perform courtroom observations.
5. Summary of the new rule or change:
Due to the physical restrictions created by COVID-19, mid-level evaluations for justice court judges are currently not available. This emergency rule is to allow for alternative evaluation options.

6. Regular rulemaking would:	
x	cause an imminent peril to the public health, safety, or welfare;
	cause an imminent budget reduction because of budget restraints or federal requirements; or
x	place the agency in violation of federal or state law.
Specific reason and justification:	
Conducting midlevel evaluations of justice court judges is required by statute in Subsection 78A-12-203(3).	

Fiscal Information

7. Aggregate anticipated cost or savings to:
A) State budget:
Average cost per midlevel evaluation is \$126 (excluding staff time). The addition of electronic means to evaluate at midlevel could result in a state budget savings of up to \$3,276.10, depending on the rate of return to in-person hearings in these smaller caseload courts. As the rule contemplates, multiple means may be used to evaluate judges, making the cost savings likely somewhat less, depending on in-person caseloads, virus impacts, etc.
B) Local governments:
There are no anticipated costs or savings to local governments. Local governments have been given access to the technology required to conduct online hearings and make them available to the public electronically by the Utah State Courts.
C) Small businesses ("small business" means a business employing 1-49 persons):
There are no anticipated costs or savings to small businesses. Small businesses do not participate in this process.
D) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):
There are no anticipated costs or savings to persons other than small businesses, non-small business, state or local government entities. Persons other than listed above do not participate in this process.
8. Compliance costs for affected persons:
There are no anticipated compliance costs for affected persons. Local governments have been given access to the technology required to conduct online hearings and make them available to the public electronically by the Utah State Courts.
9. A) Comments by the department head on the fiscal impact this rule may have on businesses:

NOTICES OF 120-DAY (EMERGENCY) RULES

There are no anticipated fiscal impacts that this rule change is expected to have on businesses.

B) Name and title of department head commenting on the fiscal impacts:

Jennifer Yim, Executive Director

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 78A-12-201	Section 78A-12-204	Section 78A-12-202
Section 78A-12-203	Section 78A-12-205	Section 78A-12-206

Agency Authorization Information

Agency head or designee, and title:	Dave Roth, Chairperson	Date:	05/12/2020
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R597. Judicial Performance Evaluation Commission, Administration.

R597-4. Justice Courts.

R597-4-2. Mid-level Evaluation of Justice Court Judges.

(1) For the evaluation of mid-level judges eligible for retention in 2022 and 2024, evaluations shall include one or more of the following:

- (a) an intercept survey as specified in Subsection 78A-12-207(3), including follow-up interviews by phone, as necessary;
- (b) in-person courtroom observation,
- (c) courtroom observation by video, including web conference, live stream, or pre-recording; and
- (d) courtroom observation by audio recording.

KEY: justice court evaluations, justice court multiple jurisdictions, justice court classifications, justice court multiple election years

Date of Enactment or Last Substantive Amendment: May 12, 2020

Notice of Continuation: March 22, 2019

Authorizing, and Implemented or Interpreted Law: 78A-12-201 through 78A-12-206

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R623-6	Filing No. 52784

Agency Information

1. Department:	Lieutenant Governor
Agency:	Elections
Room no.:	220
Building:	Utah State Capitol

Street address:	350 N State Street	
City, state, zip:	Salt Lake City, UT 84103	
Mailing address:	PO Box 142325	
City, state, zip:	Salt Lake City, UT 84114-2325	
Contact person(s):		
Name:	Phone:	Email:
Derek Brenchley	801-538-1746	brenchleyderek@gmail.com
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R623-6. Verification of Requests to Withhold Voter Registration Information

3. Effective Date:
05/15/2020

4. Purpose of the new rule or reason for the change:

S.B. 83, passed in the 2020 General Session, essentially created three classifications of voter registrations and specified how that information may be released to the public:

1. Public registrations – the registration can be obtained by the public and all third parties
2. Private registrations – the registration cannot be obtained by the public, but it can be obtained by political parties and candidates for public office. Any registered voter may classify their record as a private registration.
3. Withheld registrations – the registration cannot be obtained by any third party, including political parties and candidates.

S.B. 83 specifies that only certain individuals are eligible to classify their registration as "withheld" (refer to lines 664-674). These individuals include law enforcement officers, members of the armed forces, victims or potential victims of domestic or dating violence, public figures, and an individual protected by a protective order or protection order.

S.B. 83 also requires that some of these individuals provide verification of their eligibility (refer to lines 667-668). In lines 683-685, the bill instructs the director of elections within the Office of the Lieutenant Governor (Office) to make administrative rules establishing requirements for individuals to provide this verification.

5. Summary of the new rule or change:

This new administrative rule creates verification requirements for individuals who are eligible to withhold their voter registration information. This rule provides the lieutenant governor and county clerks with the ability to

require additional documentation if: 1) an individual does not provide verification, or 2) the lieutenant governor or county clerk reasonably believes that the individual is not eligible to withhold his or her voter registration information. (EDITOR'S NOTE: A corresponding proposed new Rule R623-6 is under ID No. 52758 in this issue, June 1, 2020, of the Bulletin.)

6. Regular rulemaking would:

- cause an imminent peril to the public health, safety, or welfare;
- cause an imminent budget reduction because of budget restraints or federal requirements; or
- place the agency in violation of federal or state law.

Specific reason and justification:

Individuals can begin submitting requests to withhold their voter registration information on May 12, 2020, the effective date of S.B. 83 (2020). The legislation requires administrative rules to provide standards of verification for these requests, but the regular rulemaking process would not be finalized until months after the bill's effective date. This would create a gap of several months in which these requests could not be processed or verification standards would not exist, which would be contrary to the statute.

The Office could not begin the regular administrative rule process prior to May 12, 2020, because our authority to create this rule did not exist until S.B. 83 went into effect.

Fiscal Information

7. Aggregate anticipated cost or savings to:

A) State budget:

The state budget is not regulated or affected by this rule.

B) Local governments:

Local governments are not regulated or affected by this rule.

C) Small businesses ("small business" means a business employing 1-49 persons):

Small businesses are not regulated or affected by this rule.

D) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

Affected individuals are registered voters who are eligible to withhold their voter registration information. This includes the following individuals:

1. Law enforcement officers;
2. Members of the armed forces;
3. Individuals protected by a protection or protective order;
4. Public figures;

5. Individuals who are or may be victims of domestic or dating violence;
6. Individuals who reside with the individuals listed above.

Although these individuals are affected by this rule, the rule does not pose a fiscal impact for them.

8. Compliance costs for affected persons:

Affected individuals may request to withhold their voter registration information by submitting a paper form (or a fillable PDF) and verification of their eligibility. The verification required by the administrative rule is a written statement that explains why the individual is eligible to withhold their voter registration information. If the lieutenant governor or county clerk reasonably believes that the individual is not eligible, the lieutenant governor or county clerk may require the individual to provide additional documentation for eligibility. The administrative rule outlines acceptable types of this documentation.

The Office estimates that compliance will not impose a fiscal impact on individuals, but it will take approximately 5 to 10 minutes for an individual to complete the form and submit it to the lieutenant governor and county clerk. The individual may have an additional compliance burden if the lieutenant governor or county clerk requires additional documentation. This may require an individual to gather and submit a copy of the documentation (e.g., scanning and sending an employee ID card).

9. A) Comments by the department head on the fiscal impact this rule may have on businesses:

Small businesses are not regulated or affected by this rule.

B) Name and title of department head commenting on the fiscal impacts:

Justin Lee, Director of Elections

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 20A-2-104

Agency Authorization Information

Agency head or designee, and title:	Justin Lee, Director	Date:	05/15/2020
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R623. Lieutenant Governor, Elections.

R623-6. Verification of Requests to Withhold Voter Registration Information.

R623-6-1. Purpose and Authority.

(1) This administrative rule establishes verification requirements for individuals who submit a request to withhold the

NOTICES OF 120-DAY (EMERGENCY) RULES

individual's voter registration information to the lieutenant governor or the county clerk.

(2) This administrative rule is authorized by Section 20A-2-104.

R623-6-2. Verification Requirements for Requests to Withhold Voter Registration Information.

(1) An individual who submits a request to withhold voter registration information must provide verification described in subsection (2) if the individual indicates on the request that the individual is, or resides with an individual who is:

(a) A law enforcement officer;

(b) A member of the armed forces, as defined in Section 20A-1-513;

(c) A public figure, as defined in Section 20A-1-102; or

(d) protected by a protective order or protection order.

(2) An individual shall provide verification by submitting a written statement with the request that explains why the individual is eligible to withhold voter information.

(3) If an individual does not submit the verification required by subsection (2) or the lieutenant governor or county clerk reasonably believes that the individual is not an eligible individual listed in subsection (1), the lieutenant governor or county clerk may require the individual to submit additional documentation to verify eligibility.

(a) For an individual who indicates that the individual is a law enforcement officer, additional documentation may include:

(i) employee identification card;

(ii) copy of the individual's Peace Officer Standards and Training Certification;

(iii) law enforcement badge if it includes identifying information;

(iv) Letter from the individual's employer verifying the individual's position as a law enforcement officer; or

(v) other documents, at the lieutenant governor's or county clerk's discretion, that verify the individual's position as a law enforcement officer.

(b) For an individual who indicates that the individual is a member of the armed forces, additional documentation may include:

(i) military identification card;

(ii) copy of military orders;

(iii) letter from the individual's employer verifying the individual's membership in the armed forces; or

(iv) other documents, at the lieutenant governor's or county clerk's discretion, that verify the individual's membership in the armed forces.

(c) For an individual who indicates that the individual is a public figure, additional documentation may include:

(i) documents that indicate the individual is being considered for, currently holding, or held a position of prominence in a public or private capacity or holds celebrity status;

(ii) documents or information that indicate the individual has an increased risk of safety due to their position or status; or

(iii) other documents, at the lieutenant governor's or county clerk's discretion, that verify the individual is a public figure as defined in Section 20A-1-102.

(d) For an individual who indicates that the individual is protected by a protective order or protection order, additional documentation may include:

(i) a copy of the protective or protection order; or

(ii) other documents, at the lieutenant governor's or county clerk's discretion, that verify the individual is protected by a protective order or protection order.

(e) For an individual who resides with an individual described in subsections (3)(a), (3)(b), (3)(c), or (3)(d), additional documentation may include documents, at the lieutenant governor's or county clerk's discretion, that indicate that the individual lives with the individual described in subsections (3)(a), (3)(b), (3)(c), or (3)(d).

KEY: voter registration, record classification, privacy

Date of Enactment or Last Substantive Amendment: May 15, 2020

Authorizing, and Implemented or Interpreted Law: 20A-2-104

End of the Notices of 120-Day (Emergency) Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <https://rules.utah.gov/>. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R590-199	Filing No. 51394

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	3110	
Building:	State Office Building	
Street address:	450 N State St	
City, state, zip:	Salt Lake City, UT 84114	
Mailing address:	PO Box 146901	
City, state, zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-538-3803	sgooch@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:	R590-199. Plan of Orderly Withdrawal Rule Relating to Health Benefit Plans	
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:		
Subsection 31A-2-201(3) authorizes the Insurance Commissioner to write rules to implement the provisions of Title 31A, Insurance Code. Subsection 31A-4-115(8) authorizes the Insurance Commissioner to write rules to		

implement this section regarding an insurer's "Plan of Orderly Withdrawal." This rule sets the information that is to be included in an insurer's withdrawal plan and the way in which it is to be implemented, including to whom and when notification of the withdrawal is to be sent.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department of Insurance has received no written comments regarding this rule during the past five years.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule requires specific information to be provided to the Insurance Commissioner for purposes of approving a plan of orderly withdrawal. This rule is necessary to maintain a health benefit market that is stable, fair, and efficient for individuals and small employers. This rule promotes an orderly process by which an insurer can elect to non-renew health benefit plan coverages. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer I	Date:	05/04/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R850-150	Filing No. 52054

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Agency Information

1. Department:	School and Institutional Trust Lands	
Agency:	Administration	
Room no.:	Suite 500	
Street address:	675 E 500 S	
City, state, zip:	Salt Lake City, UT 84102-2818	
Mailing address:	675 E 500 S	
City, state, zip:	Salt Lake City, UT 84102-2818	
Contact person(s):		
Name:	Phone:	Email:
Mike Johnson	801-538-5180	mjohnson@utah.gov
Lisa Wells	801-538-5154	lisawells@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R850-150. Rare Plant Species
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule implements Section 53C-1-101 et seq. This rule

is specifically authorized by Section 53C-2-202 which authorizes the director to make determinations with respect to the management, protection, and conservation of plant species located on trust lands which are listed under the federal Endangered Species Act.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments have been received by the agency for this rule since the initial enactment.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule defines "Conservation Agreement" as being the Conservation Agreement and Strategy for Graham's Beardtongue and White River Beardtongue, dated July 22, 2014. It also defines "Conservation Area" as any trust lands located within the Conservation Area described in Appendices A and B of the Conservation Agreement. This rule further restricts surface disturbance within Conservation Areas without prior agency approval. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	David Ure, Director	Date	04/24/2020
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End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Administrative Services

Facilities Construction and Management

No. 52492 (Repeal): R23-33. Rules for the Prioritization and Scoring of Capital Improvements by the Utah State Building Board

Published: 02/01/2020

Effective: 05/20/2020

Purchasing and General Services

No. 52485 (Amendment): R33-26. State Surplus Property

Published: 02/01/2020

Effective: 05/20/2020

Education

Administration

No. 52635 (Amendment): R277-419. Pupil Accounting

Published: 04/15/2020

Effective: 05/26/2020

No. 52637 (Amendment): R277-477. Distributions of Funds from the Trust Distribution Account and Administration of the School LAND Trust Program

Published: 04/15/2020

Effective: 05/26/2020

No. 52570 (Amendment): R277-553. Charter School Oversight, Monitoring and Appeals

Published: 04/15/2020

Effective: 05/26/2020

No. 52638 (Amendment): R277-604. Private School, Home School, and Bureau of Indian Affairs (BIA) Student Participation in Public School Achievement Tests

Published: 04/15/2020

Effective: 05/26/2020

No. 52639 (Amendment): R277-613. LEA Disruptive Student Behavior, Bullying, Cyber-bullying, Hazing, Retaliation, and Abusive Conduct Policies and Training

Published: 04/15/2020

Effective: 05/26/2020

No. 52640 (Amendment): R277-708. Enhancement for At-Risk Students

Published: 04/15/2020

Effective: 05/26/2020

Human Services

Administration

No. 52591 (Amendment): R495-810. Government Records Access and Management Act

Published: 03/15/2020

Effective: 05/11/2020

Administration, Administrative Services, Licensing

No. 52595 (Amendment): R501-12. Foster Care Services

Published: 03/15/2020

Effective: 05/11/2020

No. 52578 (Amendment): R501-22. Residential Support Programs

Published: 03/01/2020

Effective: 05/11/2020

Labor Commission

Boiler, Elevator and Coal Mine Safety

No. 52612 (Amendment): R616-3. Elevator Rules

Published: 04/01/2020

Effective: 05/11/2020

NOTICES OF RULE EFFECTIVE DATES

UTech Board of Trustees

Administration

No. 52603 (Amendment): R945-1. UTech Technical College
Scholarship

Published: 04/01/2020

Effective: 05/11/2020

Workforce Services

Employment Development

No. 52604 (Amendment): R986-700. Child Care Assistance

Published: 04/01/2020

Effective: 05/09/2020

Housing and Community Development

No. 52602 (Amendment): R990-101. Qualified Emergency

Food Agencies Fund (QEFAF)

Published: 04/01/2020

Effective: 05/09/2020

End of the Notices of Rule Effective Dates Section