

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed July 16, 2020, 12:00 a.m. through July 31, 2020, 11:59 p.m.

Number 2020-16
August 15, 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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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.

EXECUTIVE ORDER 2020-47

Wildland Fire Management

WHEREAS, the danger from wildland fires is high throughout the State of Utah;

WHEREAS, wildfires are currently burning in some areas of the State;

WHEREAS, fire restrictions and wildfire warnings are in place across the State;

WHEREAS, extreme dry conditions have occurred and are forecasted throughout the State;

WHEREAS, some of the areas are extremely remote and inaccessible and the situation has the potential to greatly worsen if left unattended;

WHEREAS, we have seen fires that are not immediately extinguished soon after ignition have grown to large fires;

WHEREAS; COVID-19 has exhausted State and Local resources and will increase the complexity of wildfire response;

WHEREAS, immediate action will be required to suppress fires and mitigate post burn flash floods to protect public safety, property, natural resources and the environment should these dangerous conditions escalate to active wildfires;

WHEREAS, these conditions do create the potential for a disaster emergency within the scope of the Disaster Response and Recovery Act of 1981;

NOW THEREFORE, I, Gary R. Herbert, Governor of the State of Utah by virtue of the power vested in me by the constitution and the laws of the State of Utah, do hereby order that:

It is found, determined and declared that a "State of Emergency" exists Statewide due to the threat to public safety, property, critical infrastructure, natural resources and the environment, effective for the month of August 2020, requiring aid, assistance and relief available pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

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 1st day of August, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/047/EO

EXECUTIVE ORDER
2020-48

Extending Face Coverings Requirement in State Facilities

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, COVID-19 can spread between individuals in close proximity through respiratory droplets produced when an infected individual speaks, coughs, or sneezes;

WHEREAS, an infected individual can transmit COVID-19 even if the individual does not present symptoms or know that the individual is infected;

WHEREAS, the United States Centers for Disease Control and Prevention and the Utah Department of Health have recommended the use of face masks or other face coverings to mitigate the transmission of COVID-19;

WHEREAS, on June 27, 2020, the Utah Transit Authority issued a directive requiring its employees and public transit riders to wear masks or face coverings to protect public health;

WHEREAS, the Utah Department of Health and I have determined that it is appropriate to continue to require individuals, including employees and members of the public, to wear face coverings while in state facilities to protect public health;

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:
 - a. "Face covering" means a covering, without holes that can be seen through, that covers the nose and mouth, including a cloth mask or face shield.
 - b.i. "State facility" means a building or structure, or part thereof, that is owned, leased, occupied, or controlled by the state or a state governmental entity.
 - ii. "State facility" does not mean:

- A. a state prison or state community correctional center;
- B. a detention facility or secure facility operated by the Division of Juvenile Justice Services; or
- C. a building or structure, or part thereof, that is owned, leased, occupied, or controlled exclusively by:
 - I. the legislative branch of the state;
 - II. the judicial branch of the state;
 - III. the Attorney General's Office;
 - IV. the State Auditor's Office;
 - V. the State Treasurer's Office; or
 - VI. an independent entity as defined in Utah Code § 63E-1-102.
- c. "State governmental entity" means any department, board, commission, institution, agency, or institution of higher education of the state.
 - 2. Each individual in a state facility shall wear a face covering, except as provided in Section (3).
 - 3. Section (2) does not apply to:
 - a. a child who:
 - i. is in a childcare setting;
 - ii. is younger than three years old; or
 - iii. is three years old or older if the parent, guardian, or individual responsible for caring for the child cannot place the face covering safely on the child's face;
 - b. an individual with a medical condition, mental health condition, or disability that prevents wearing a face covering, including an individual with a medical condition for whom wearing a face covering could cause harm or obstruct breathing, or who is unconscious, incapacitated, or otherwise unable to remove a face covering without assistance;
 - c. an individual who is deaf or hard of hearing, or communicating with an individual who is deaf or hard of hearing, where the ability to see the mouth is essential for communication, in which case a face shield or alternative protection such as a plexiglass barrier should be used;
 - d. an individual who is receiving or providing a service involving the nose or face for which temporary removal of the face covering is necessary to perform the service;
 - e. an individual who is outdoors;
 - f. an individual in a vehicle;
 - g. an individual who is actively engaged in any of the following activities while maintaining a physical distance of at least six feet from any other individual who is not from the same household or residence:
 - i. using an indoor recreational facility; or
 - ii. eating or drinking; or
 - h. a state employee who is not speaking in person with any other individual and who:
 - i. is the sole occupant of a fully enclosed room or office;
 - ii. is the sole occupant of a partially enclosed room, office, or similar space, including a cubicle, that is enclosed on at least three sides by walls or other physical barriers or dividers of a height that reaches no lower than the top of the employee's head when the employee is seated; or
 - iii. is seated or stationary, and maintains a physical distance of at least six feet from any other individual.
 - 4.a. Except as provided in Subsections (4)(b) and (4)(c), a state governmental entity may not require an individual to provide medical documentation verifying the basis for an exemption under Subsection (3)(b).
 - b. A state governmental entity may require an individual employed by the state governmental entity to provide medical documentation verifying the basis for an exemption under Subsection (3)(b).
 - c. A state institution of higher education may require an individual who is enrolled as a student of the state institution of higher education to provide medical documentation verifying the basis for an exemption under Subsection (3)(b).
 - 5. A state governmental entity may refuse to provide in-person service to any individual who does not wear a mask in a state facility of the state governmental entity if:
 - a. an alternative means of service is available;
 - b. the state governmental entity specifies to the individual how to access the alternative means of service; and
 - c. the state governmental entity determines that the individual has reasonable access to the alternative means of service.
 - 6. The Utah Department of Corrections shall implement requirements regarding the wearing of face coverings in a state prison or state community correctional center.
 - 7. The Division of Juvenile Justice Services shall implement requirements regarding the wearing of face coverings in a detention facility or secure facility operated by the Division of Juvenile Justice Services.

This Order is declared effective immediately and shall remain in effect until 11:59 p.m. on August 20, 2020, or until 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 8th day of August, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/048/EO

EXECUTIVE ORDER
2020-49

Extending the Utah COVID-19 Public Health Risk Status

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 Department of Health has released and updated the Phased Guidelines for the General Public and Businesses to Maximize Public Health and Economic Reactivation, which provide a color-coded health guidance system (hereinafter, "Utah COVID-19 Health Risk Status"), to guide economic engagement while still protecting public health;

WHEREAS, the Utah Department of Health has determined that the Utah COVID-19 Health Risk Status set forth in Executive Order 2020-46 should be maintained to protect public health throughout the state;

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:
 - a. "Person" means the same as that term is defined in Utah Code § 68-3-12.5(18).
 - b. "Phased Guidelines" means the Phased Guidelines for the General Public and Businesses to Maximize Public Health and Economic Reactivation version 4.9.
2. The Utah COVID-19 Public Health Risk Status is:
 - a. Moderate Risk (Orange) in Salt Lake City;
 - b. New Normal Risk (Green) in Beaver County, Daggett County, Duchesne County, Emery County, Garfield County, Kane County, Millard County, Piute County, Uintah County, and Wayne County; and

- c. Low Risk (Yellow) in each area of the State not identified in Subsection (2)(a) or (2)(b).
- 3. The provisions of the Phased Guidelines apply as follows:
 - a. Each person in an area identified in Subsection (2)(a) shall comply with the Moderate Risk (Orange) provisions of the Phased Guidelines;
 - b. Each person in an area identified in Subsection (2)(b) shall comply with the New Normal Risk (Green) provisions of the Phased Guidelines;
 - c. Each person in an area identified in Subsection (2)(c) shall comply with the Low Risk (Yellow) provisions of the Phased Guidelines; and
 - d. Notwithstanding any other provision of Section (3), any reference in the Phased Guidelines to the use of a mask or face covering is adopted:
 - i. as an order for:
 - A. each individual who is 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 for any individual not identified in Subsection (3)(d)(i).
- 4. A political subdivision desiring an exception to this Order or the Phased Guidelines or desiring to move to New Normal Risk (Green) 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. To the extent that any provision of this Order conflicts with a provision of Executive Order 2020-48 or Utah Public Health Order 2020-10, the provision of Executive Order 2020-48 or Utah Public Health Order 2020-10 shall control.

This Order is declared effective immediately and shall remain in effect until 11:59 p.m. on August 20, 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 8th day of August, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/049/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 July 16, 2020, 12:00 a.m., and July 31, 2020, 11:59 p.m. are included in this, the August 15, 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 September 14, 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 December 13, 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.):	R36-1	Filing No. 52975

Agency Information

1. Department:	Administrative Services	
Agency:	Records Management Committee	
Building:	State Archives	
Street address:	346 S Rio Grande St	
City, state:	Salt Lake City, UT 84101	
Mailing address:	346 S. Rio Grande St	
City, state, zip:	Salt Lake City, UT 84101	
Contact person(s):		
Name:	Phone:	Email:
Kendra Yates	801-531-3856	kendrayates@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R36-1. Records Management Committee
3. Purpose of the new rule or reason for the change:
The purpose of the new rule is to establish procedures for Records Management Committee meetings, particularly when held electronically, and retention schedule review and approval.
4. Summary of the new rule or change:
Rule R36-1 outlines the processes used to prepare, hold, and document a Records Management Committee meeting, including provisions for holding a meeting electronically, pursuant to Section 52-4-207. It also establishes procedures for authorizing retention schedules. (EDITOR'S NOTE: A corresponding 120-day emergency Rule R36-1, that is effective as of 07/20/2020, is under Filing No. 52972 in this issue, August 15, 2020, of the Bulletin.)

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule has no fiscal impact on the state government budget because it is administrative in nature and does not increase required resources.

B) Local governments:
This rule has no fiscal impact on local governments because it is administrative in nature and does not increase required resources.

C) Small businesses ("small business" means a business employing 1-49 persons):
This rule has no fiscal impact on small businesses because it is administrative and internal in nature.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This rule has no fiscal impact on non-small businesses because it is administrative and internal in nature.

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 has no fiscal impact on persons because it is only administrative and internal in nature.

F) Compliance costs for affected persons:
There is no cost for complying with 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 Executive Director of the Department of Administrative Services, Tani Downing, 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 will not have a fiscal impact on businesses, as it is only administrative in nature, and clarifies processes utilizing staff as they are in their current roles and equipment already in place.

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

Tani Downing, 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 63A-12-112	Section 63A-12-113	Section 52-4-203
Section 63G-2-604		

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: 09/15/2020

10. This rule change MAY become effective on: 09/22/2020

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:	Kenneth R. Williams, Director	Date:	05/18/2020
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R36. Administrative Services, Records Management Committee.

R36-1. Records Management Committee.

R36-1-1. Authority and Purpose.

This rule establishes procedures for Records Management Committee meetings and retention schedule review and approval under Title 63A Chapter 12 Public Records Management Act and Sections 63A-12-112, 63A-12-113, 52-4-203, and 63G-2-604, as authorized under Section 63A-12-104.

R36-1-2. Definitions for Rules in Title R36.

(1) In addition to terms defined in Sections 63G-2-103 and 63A-12-100.5, the following terms are defined for rules under Title R36:

(a) "Committee" means the Records Management Committee in accordance with Section 63A-12-112.

(b) "State Archives support staff" means individuals assigned by the state archivist to provide support services for the Records Management Committee, as required in Subsection 63A-12-113(4).

(c) "Records and Information Management (RIM) Specialist" means a staff member at the Utah Division of Archives and Records Service whose responsibilities include establishing standards for the preparation of retention schedules and providing records management training and consultation services to the records officers of governmental entities, as required in Subsection 63A-12-101(2).

R36-1-3. Records Management Committee Meeting Preparation.

(1) Each committee member shall receive a meeting folder from State Archives support staff no later than three business days before the scheduled meeting. Folders shall include an agenda, retention schedules submitted for review and approval, and any other materials requiring review and discussion by the committee.

(2) If a committee member would like clarification regarding a submitted retention schedule prior to the meeting, a committee member may communicate with the Records and Information Management (RIM) Specialist at the State Archives who submitted the item.

R36-1-4. Records Management Committee Meeting Procedures.

(1) Meetings shall be held at least once each quarter, as required in Subsection 63A-12-113(1)(b).

(2) A committee chair, appointed from among the committee's members, as required in Subsection 63A-12-113(1)(a), shall be elected by the committee members annually. There is no term limit for chairmanship.

(3) Each meeting shall be called to order by the committee chair and may start once a quorum of four members is present and the meeting is being recorded.

NOTICES OF PROPOSED RULES

(4) Third party presentations may be permitted. Prior to the hearing, the third party shall notify State Archives support staff of intent to present.

(5) A RIM Specialist from the State Archives shall present a proposed retention schedule. The committee shall discuss the schedule and ask questions as needed.

(6) Each committee member in attendance shall vote whether or not to approve each schedule. A majority vote of members present is required for a motion to pass. If a retention schedule is not approved, a committee member shall make recommendations as to how to modify or improve the schedule for approval at the next meeting, if applicable.

(7) The committee may adjourn, reschedule, or continue a meeting on the motion of a member.

(8) The following provisions govern any meeting at which one or more members of the committee or a party appears telephonically or electronically, pursuant to Section 52-4-207.

(a) The anchor location is the physical location from which the electronic meeting originates or from which the participants are connected. The anchor location, unless otherwise designated in the notice, shall be at the offices of the Utah Division of Archives and Records Service, Salt Lake City, Utah.

(b) If one or more committee members or parties may be participating electronically or telephonically, public notices of the meeting shall so indicate. In addition, the notice shall specify the anchor location where the members of the committee not participating electronically or telephonically shall be meeting and where interested persons and the public may attend and monitor the open portions of the meeting.

(c) When notice is given of the possibility of a member of the committee appearing electronically or telephonically, any member of the committee may do so and shall be counted as present for purposes of a quorum and may fully participate and vote on any matter coming before the committee. At the commencement of the meeting, or at such time as any member of the committee initially appears electronically or telephonically, the committee chair shall identify for the record each of those who are appearing telephonically or electronically. Votes by members of the committee who are not at the physical location of the meeting shall be confirmed by the committee chair.

R36-1-5. Authorizing Approved Retention Schedules.

(1) The committee chair and a State Archives support staff member who attended the meeting shall sign the approved retention schedule after the meeting, signifying committee approval.

(2) Committee approval authorizes and requires relevant governmental entities to maintain and destroy records according to the schedule, per Section 63G-2-604. Once a retention schedule is approved and signed, it supersedes previous retention schedules for the applicable records.

(3) Approved retention schedules are posted on the State Archives website and go into effect immediately.

R36-1-6. Records Management Committee Meeting Records.

(1) Section 52-4-203 requires any public body to establish and implement procedures for the public body's approval of the written minutes of each meeting. This rule establishes procedures for the Records Management Committee to approve the written minutes of each meeting.

(2) Any meeting of the committee shall be recorded. The recording of the open meeting shall be made available to the public within three business days. Access to the audio recordings shall be

provided by State Archives support staff on the Utah Public Notice Website.

(3) Approved written minutes shall be the official record of the meetings and shall be maintained by State Archives support staff.

(a) Written minutes shall be read by members prior to the next scheduled meeting, including electronic meetings.

(b) Written minutes from meetings shall be made available no later than three business days prior to the date of the next regularly scheduled committee meeting.

(c) When minutes are complete but awaiting official approval, they are a public record and shall be marked as "Draft."

(d) At the next meeting, at the direction of the committee chair, minutes shall be amended, if necessary, and approved through a committee vote, with individual votes recorded. The minutes shall be then marked as "Approved."

(e) A copy of the approved minutes, as well as public meeting materials, shall be made available for public access on the Utah Public Notice Website.

KEY: meeting procedures, records management, review procedures, state records

Date of Enactment or Last Substantive Amendment: 2020 Authorizing and Implemented or Interpreted Law: 52-4-203; 63A-12-104; 63A-12-112; 63A-12-113; 63G-2-604; 63G-3-201

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R68-31	Filing No. 52992

Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
Street address:	350 N Redwood Road	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 146500	
City, state, zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	801-982-2204	ambermbrown@utah.gov
Cody James	801-982-2376	codyjames@utah.gov
Kelly Pehrson	801-982-2202	kwpehrson@utah.gov

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

General Information

2. Rule or section catchline:
R68-31. Cannabis Licensing Process
3. Purpose of the new rule or reason for the change:
These changes are needed to allow for the Cannabis Production Establishment Licensing Board to meet electronically, add circumstances that require facilities to go before the Board, add an annual Board meeting in December, and remove a member from the Board.
4. Summary of the new rule or change:
These changes provide guidelines for electronic meetings of the Cannabis Production Establishment Licensing Board, adds additional circumstances that require facilities to go before the Board, adds an annual Board meeting in December, and removes a member from the Board. They also make changes that will make the rule more consistent with the Utah Rulemaking Manual.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
The changes do not create any new costs or generate savings for the Department of Agriculture and Food (Department). The Department currently possesses the equipment needed to hold electronic Board meetings. Additionally, the Cannabis Production Establishment Licensing Board has the ability to meet as needed without incurring additional costs. The change in Board membership does not affect costs or savings.
B) Local governments:
These rule changes should not affect any local governments because they do not operate as or regulate cannabis production establishments.
C) Small businesses ("small business" means a business employing 1-49 persons):
The rule changes do not create additional costs for small businesses because the licensing fees charged by the Department for cannabis production establishments are not changing. Additionally, establishments will be able to attend electronic meetings in the same manner they would in person meetings.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The rule changes do not create additional costs for non-small businesses because the licensing fees charged by the Department for cannabis production establishments are not changing. Additionally, establishments will be able to attend electronic meetings in the same manner they would in person meetings.

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**):

Other persons are not affected by these changes. As members of the public, they will still have the option to attend Cannabis Production Establishment Licensing Board meetings if they are electronic.

F) Compliance costs for affected persons:

No additional compliance costs are created with 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 Commissioner of the Department of Agriculture and Food, R. Logan Wilde, has reviewed and approves this fiscal analysis.

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

These rule changes will not have any fiscal impact on businesses. The Department currently maintains the equipment necessary to hold electronic meetings. The additional changes will allow the Cannabis Production Establishment Licensing Board to operate more effectively but do not create additional costs for businesses that operate as cannabis production establishments.

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

R. Logan Wilde, 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):

Subsection 4-41a-201(2)(iii)	Section 4-2-103	
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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: 09/14/2020

10. This rule change MAY become effective on: 09/21/2020

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:	R. Logan Wilde, Commissioner	Date:	07/30/2020
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R68. Agriculture and Food, Plant Industry.

R68-31. Cannabis Licensing Process.

R68-31-1. Authority and Purpose.

Pursuant to ~~sections~~ Subsection 4-41a-201(2)(a)(iii) and Section 4-2-103, this rule establishes the Cannabis Production Establishment Licensing Board and the process for issuing a cannabis production establishment license.

R68-31-2. Definitions.

- 1) "Cannabis cultivation facility" means a person that:
 - a) possesses cannabis;
 - b) grows or intends to grow cannabis; and
 - c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis processing facility, or a medical cannabis research licensee.
- 2) "Cannabis processing facility" means a person that:
 - a) acquires or intends to acquire cannabis from a cannabis production establishment ~~or a holder of an industrial hemp processor license under Title 4, Chapter 41, Hemp and Cannabinoid Act~~;
 - b) possesses cannabis with the intent to manufacture a cannabis product;
 - c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and
 - d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.
- 3) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.
- 4) "Department" means the Utah Department of Agriculture and Food.
- 5) "Independent cannabis testing laboratory" means a person that:
 - a) conducts a chemical or other analysis of cannabis or cannabis product; or
 - b) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

R68-31-3. Cannabis Production Establishment Licensing Board Established.

- 1) The department shall establish a Cannabis Production Establishment Licensing Board to evaluate cannabis production establishment applications and issue cannabis production establishment licenses.
- 2) The Cannabis Production Establishment Licensing Board shall be composed of six members:
 - a) the Commissioner of the department or designee;
 - b) the Deputy Commissioner of the department;
 - ~~c) the Cannabis and Industrial Hemp Division Director;~~
[d] c) the Regulatory Services Division Director;
 - [e] d) the State Chemist and Laboratory Division Director;
 and
 [f] e) the Plant Industry Division Director.

3) The [e]Commissioner or the commissioner's designee shall serve as chair of the Cannabis Production Establishment Licensing Board.

4) The [e]Commissioner or the commissioner's designee may not vote except in the event of a tie, in which case the [e]Commissioner or the commissioner's designee shall cast the deciding vote.

5) Attendance of four members of the Cannabis Production Establishment Licensing Board shall constitute a quorum.

R68-31-4. Duties of the Cannabis Production Establishment Licensing Board.

1) The Cannabis Production Establishment Licensing Board is responsible for the issuing of any type of cannabis production establishment license.

2) The Cannabis Production Establishment Licensing Board shall:

a) review the application for compliance with:

i) ~~[Utah Code]~~Title 4, Chapter 41a, Cannabis Production Establishments;

ii) Rule R68-30;~~and~~

iii) Rule R68-27;

iv) Rule R68-28; ~~[or]~~and

v) Rule R68-29;

b) conduct a public hearing to consider the applications;

c) approve the department's license application forms and checklists; and

d) make a determination on the application.

3) The [e]Commissioner shall schedule a public hearing of the Cannabis Production Establishment Licensing Board if a cannabis production establishment:

a) changes ownership by 20% or more;

b) changes or adds a location;

c) upgrades to a Tier 1 Processing License;

d) changes extraction or formulation Standard Operating Procedures;

e) adds an industrial hemp processing or cultivation license to the same location as their medical production facility; or

f) as necessary based on the recommendation of the department.

4) The Cannabis Production Establishment Licensing Board shall meet each year in December to consider cannabis production establishment license renewal applications.

a) During that meeting, a representative from each renewing facility shall be present in person, electronically, or shall submit information prior to the meeting for the Board to consider.

b) The information considered at the meeting from each renewing facility shall include:

i) the amount of biomass produced during the year;

ii) the projected biomass to be produced the following year;

iii) the amount of hemp waste the facility currently holds;

iv) the current square footage or acres of growing area the facility is utilizing; and

v) The projected square feet or acres of growing area a facility will be utilizing in the following year.

[4]5) The department's licensing authority is plenary and is not subject to review pursuant to ~~[Utah Code]~~Subsection 4-41a-201(13).

R68-31-5. Cannabis Production Establishment Licensing Board Electronic Meetings.

1) The following provisions govern any meeting of the Cannabis Production Establishment Licensing Board.

a) Notice of the meeting shall specify the anchor location where the members of the Cannabis Production Establishment Licensing Board not participating electronically or by telephone will be meeting and where interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

b) Notice of the meeting and the agenda shall be posted at the anchor location. Written or electronic notice shall also be posted on the Public Notice Website. These notices shall be provided at least 24 hours before the meetings.

c) Notice of the possibility of an electronic meeting shall be given to the Cannabis Production Establishment Licensing Board members at least 24 hours before the meeting. The notice shall describe how a member may participate in the meeting electronically or by telephone.

d) When notice is given of the possibility of a member appearing electronically or by telephone, any member may do so and shall be counted as present for purposes of a quorum and may fully participate and vote on any matter coming before the Cannabis Production Establishment Licensing Board.

e) At the commencement of the meeting, or at such time as any member initially appears electronically or by telephone, the chair shall identify for the record all those who are appearing by telephone or electronically.

f) Votes by members of the Cannabis Production Establishment Licensing Board who are not at the physical location of the meeting shall be confirmed by the chair.

g) The anchor location, unless otherwise designated in the notice, shall be at the offices of the Department of Agriculture and Food.

i) The anchor location is the physical location from which the electronic meeting originates or from which the participants are connected.

ii) The anchor location shall have space and facilities so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

R68-31-[5]6. Application for Cannabis Processing Facility and Independent Cannabis Testing Laboratory.

1) No cannabis processing facility or independent cannabis testing laboratory license application shall be recommended to the Cannabis Production Establishment Licensing Board for consideration until:

a) a complete application including ~~[aH]~~documents and supplemental materials on the department's application checklist have been submitted to the department;

b) a department official has inspected the premises; and

c) a department official has conducted an investigation as described in Section R68-31-[7]8.

2) An incomplete application will be returned to the applicant.

3) The department shall forward to the Cannabis Production Establishment Licensing Board the information and recommendation to aid in the license determination.

R68-31-[6]7. Cannabis Cultivation Facility Application.

1) The department shall accept application for a cannabis cultivation facility license in January, April, July, and October of each year.

NOTICES OF PROPOSED RULES

- 2) Applications for a cannabis cultivation facility will be considered as needed based on the market need and available licenses.
- 3) Applications shall be voided at the end of December each year.
- 4) The application fee shall be paid for each application submitted for review.

R68-31-[7]8. Department Review.

- 1) The department's investigation shall:
 - a) verify ~~[aH]~~required documents and supplemental materials have been submitted with the application;
 - b) confirm the information in the application is correct;
 - c) conduct the criminal background check required in ~~Section 4-41a-202~~~~[Utah Code Title 4, Chapter 41a, Section 202]~~; and
 - d) confirm that operating and business plans comply with ~~[aH]~~state laws and administrative rules.
- 2) The department may require additional information from an applicant.
- 3) The department shall submit the cannabis processing facility or independent cannabis testing laboratory application to the Cannabis Production Establishment Licensing Board with information and a recommendation within 30 days of receiving a completed cannabis processing facility or independent cannabis testing laboratory application.
- 4) The department shall submit a cannabis cultivation facility application to the Cannabis Production Establishment Licensing Board when the department finds a need based on market needs and available licenses.

R68-31-[8]9. Public Hearing.

- 1) The Cannabis Production Establishment Licensing Board shall make licensing determination during a public hearing where the application was considered.
- 2) The Cannabis Production Establishment Licensing Board shall allow prospective applicants to make a presentation at the public hearing in which their application is considered.
- 3) The Cannabis Production Establishment Licensing Board shall notify the prospective applicant a minimum of 10 business days in advance of the public hearing where their application is being considered.
- 4) The Cannabis Production Establishment Licensing Board may limit the time available for presentations by the applicants.

KEY: cannabis, cannabis production, licensing, Cannabis Production Establishment Licensing Board
Date of Enactment or Last Substantive Amendment: ~~[February 24,] 2020~~
Authorizing, and Implemented or Interpreted Law: 4-2-103; 4-41a-201(2)(iii)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R70-530	Filing No. 52987

Agency Information

1. Department:	Agriculture and Food
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Agency:	Regulatory Services	
Street address:	350 N Redwood Road	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 146500	
City, state, zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	801-982-2204	ambermbrown@utah.gov
Travis Waller	801-982-2250	twaller@utah.gov
Kelly Pehrson	801-982-2202	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R70-530. Food Protection
3. Purpose of the new rule or reason for the change:
This change is needed to update the incorporation by reference to a more recent version of 21 CFR Sections 1-200 and to update the authority citation in this rule.
4. Summary of the new rule or change:
The changes change the text in Section R70-530-3 to incorporate 21 CFR Sections 1-200 as of April 1, 2019, as well as corrects the authority referenced in Section R70-530-1.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This change just updates citations in this rule and does not impact the state budget.
B) Local governments:
This change does not affect local governments because they are not regulated under the food protection program.
C) Small businesses ("small business" means a business employing 1-49 persons):
The change does not impact small businesses because the fees charged by the Department have not changed.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

The change does not impact non-small businesses because the fees charged by the Department have not changed.

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 change does not affect other individuals because it only updates an authority reference and incorporation by reference in this rule.

F) Compliance costs for affected persons:

The change does not affect compliance costs for affected persons because the fees charged under the food protection program remain the same.

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 Commissioner of the Department of Agriculture and Food, R. Logan Wilde, has reviewed and approves this regulatory impact analysis.

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

This change updates the incorporation in the rule to a more recent version of the Code of Federal Regulations (CFR) and does not have a fiscal impact on business in the .

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

R. Logan Wilde, 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 4-5-104

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)	21 CFR 1-200
Publisher	US Federal Government
Date Issued	April 1, 2019
Issue, or version	April 1, 2019

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: 09/15/2020

10. This rule change MAY become effective on: 09/22/2020

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:	R. Logan Wilde, Commissioner	Date:	07/28/2020
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R70. Agriculture and Food, Regulatory Services.

R70-530. Food Protection.

R70-530-1. Authority and Purpose.

(1) Authority.

This rule is promulgated under the authority of Section 4-5-[47 UCA]104.

(2) Purpose.

This rule shall be liberally construed and applied to promote its underlying purpose of safeguarding public health and providing to consumers food that is safe, unadulterated, and honestly presented.

R70-530-2. Scope.

This rule establishes definitions; sets standards for management and personnel, food operations, equipment, and facilities; and provides for food establishment plan review, inspection, and employee restriction. It shall be used to regulate bakeries, grocery and convenience stores, meat markets, food and grain processors, warehouses and any other establishment meeting the definition of a food establishment.

R70-530-3. Incorporation by Reference.

(1) The food standards, labeling requirements and procedures as specified in 21 CFR, 1 through 200, [2013 edition] April 1, 2019 edition, 40 CFR 185, April 17, 2012 edition, and 9 CFR 200 to End, January 1, 2012 edition, are incorporated by reference.

(2) The requirements as found in the U.S. Public Health Service, Food and Drug Administration, Food Code 2013, Chapters 1 through 8 with the exclusion of Subparagraphs 8-302.14(C)(1), Paragraphs 8-302.14(D) and (E), Paragraph 8-304.11(K), Paragraph 5-203.15(B), Paragraphs 5-402.11(B), (C) and (D); and exclusion of Section 8-905.40, Subparagraphs 8-905.90(A)(1) and (2), Section 8-909.20, Subparagraphs 8-911.10(B)(1) and (2), Annex 1 comprising Parts 8-6 through 8-9 with the exclusion of Section 8-905.40, Subparagraphs 8-905.90(A)(1) and (2), Section 8-909.20, Subparagraphs 8-911.10(B)(1) and (2); and Annex 2, Federal Food, Drug, and Cosmetic Act, 21, U.S.S. 342, Sec. 402 are adopted and incorporated by reference, and with the following additions or amendments:

(a) In Paragraph 1-201.10(B), insert a new subparagraph after subparagraph (b) in subparagraph (2) under "Food Establishment" to read: "(c) A catering operation which is a business entity that operates from a permitted food establishment that contracts with a client for food service to be provided to a client, the client's guests and/or customers at a different location. A catering operation may cook or perform final preparation of foods at the service location. A catering operation does not include routine services offered at the same location, or meals that are individually purchased with the exception of cash bars."

(b) In paragraph-201.10(B), insert a new subparagraph after subparagraph (2) under "Core Item" to read: "(3) 'Core Item' will also be referred to as 'non-critical' in the state rule."

(c) In Paragraph 1-201.10(B) under "Priority Item", replace the semicolon and the word "and" at the end of subparagraph (2) with a period; replace the period at the end of subparagraph (3) with "; and"; and insert a new subparagraph after paragraph (3) to read: "(4) 'Priority Item' will also be referred to as 'critical 1' in the state rule."

(d) In paragraph 1-201.10(B) under "Priority Foundation Item," replace the semicolon and the word "and" at the end of subparagraph (2) with a period; replace the period at the end of subparagraph (3) with "; and"; and add a new subparagraph after subparagraph (3) to read: "(4) 'Priority foundation item' will also be referred to as 'critical 2' in the state rule."

(e) After subparagraph 2-102.11 (17), add a new section to read: "2-102-12 Food Employee Training. Food employees shall be trained in food safety as required under 26-15-5 and shall hold a valid food handler's permit issued by a local health department."

(f) Amend Paragraph 3-201.16 (A) to read: "Except as specified in paragraph (B) of this section, mushroom species picked in the wild shall not be offered for sale or service by a food establishment."

(g) After Paragraph 3-501.17 (G), add a new paragraph to read: "(H) A date marking system that meets the criteria stated in paragraph (A) of this section shall use one of two types of date marks, and that date mark must be used consistently throughout the food establishment. The date mark will either be of the date: (1) before which food must be used as specified in paragraph (A) of this section; or (2) be the date of Day 1."

(h) Amend Subparagraph 3-501.19(B)(2) to read: "(2) Only one time marking scheme may be used, and it must be used consistently throughout the food establishment. The food shall be marked with either: (a) the time the food is removed from temperature control; or (b) the time before which the food shall be -cooked and served, served at any temperature if ready-to-eat, or discarded."

(i) After Paragraph 4-204.123(B), add a section to read: "4-204.124 Restraint of Pressurized Containers. Carbon dioxide, helium or other similar pressurized containers must be restrained or secured to prevent the tanks from falling over."

(j) At the end of section 5-101.12, add: "The process shall be in accordance with the American Water Works Association (AWWA) C651-2005 for disinfection and testing."

(k) Replace section 5-202.13, with the following: "(A) Where the horizontal distance from the water supply inlet to an adjacent single wall or obstruction is greater than three times the diameter of the inlet, or greater than four times for intersecting walls, an air gap between the water supply inlet and the floor level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least twice the diameter of the water supply inlet and may not be less than 25 millimeters (1 inch). (B) Where the horizontal distance from the water supply inlet to an adjacent single wall or obstruction is less than three times the diameter of the inlet, or less than four times for intersecting walls, an air gap between the water supply inlet and the floor level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least three times the diameter of the water supply inlet and may not be less than 38 millimeters (1.5 inches)."

(l) Amend Paragraph 5-203.15(A) to read: "If not provided with an air gap as specified under Section 5-202.13, an American Society of Sanitary Engineering (ASSE) 1022 dual check valve with an intermediate vent shall be installed upstream from a carbonating device and downstream from an copper in the water supply line."

(m) Amend Paragraph 5-402.11(A) to read: "A direct connection may not exist between the sewage system and a drain

originating from equipment in which food, portable equipment, or utensils are place."

(n) Amend section 8-103.11 to add:

(D) In addition, a variance from section 3-301.11 may be issued only when:

- (1) the variance is limited to a specific task or work station;
- (2) the applicant has demonstrated good cause why section 3-301.11 cannot be met;

(3) suitable utensils are used to the fullest extent possible with ready-to-eat foods in the rest of the establishment; and

(4) the applicant can demonstrate active managerial control of this risk factor at all times.

(o) Amend section 8-302.14 to renumber (F) to (D), (G) to (E), and (H) to (F).

(p) Amend Paragraph 8-304.10(A) to read:

(A) Upon request, the regulatory authority shall provide a copy of the Utah Food Protection Rule according to the policy of the local regulatory agency.

(q) Amend subparagraph 8-401.10(A) to read: "(A) Except as specified in paragraphs (B) and (C) of this section, the regulatory authority shall inspect a food establishment at least once every 6 months. (B)(2) to read: "The food establishment is assigned a less frequent inspection frequency based on a written risk-based inspection schedule that is being uniformly applied throughout the jurisdiction".

(r) Add Paragraph 8-501.10(C) to read: (C) Meeting reporting requirements under Communicable Disease Rule R386-702 and Injury Reporting Rule R386-703.

(s) Amend section 8-601.10 to read: Due process and equal protection shall be afforded as required by law in all enforcement and regulatory actions. Enforcement of this Rule shall be in accordance with title 4-2-2(J), Title 4-2-12, and R70-201.

(t) Add "8-7 Penalties; 8-701.10 State Construction Code

All parts of the food establishment shall be designed, constructed, maintained, and operated to meet the standards of the state construction code adopted by the Utah Legislature under Title 15A UCA. A copy of the construction code is available at the office of the local building inspector."

(3) All references to food that requires time or temperature control for safety, TCS, in this rule are equivalent to references in past editions of the U.S. Public Health Service, Food and Drug Administration, Food Code to potentially hazardous food, PHF.

KEY: food, inspections

Date of Enactment or Last Substantive Amendment: ~~February 2, 2016~~ **2020**

Notice of Continuation: March 6, 2017

Authorizing, and Implemented or Interpreted Law: 4-5-~~17~~**104**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R156-55a	Filing No. 52921

Agency Information

1. Department:	Commerce
Agency:	Occupational and Professional Licensing
Building:	Heber M. Wells Building

Street address:	160 E 300 S	
City, state:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146741	
City, state, zip:	Salt Lake City, UT 84114-6741	
Contact person(s):		
Name:	Phone:	Email:
Chris Rogers	801-530-6720	crogers@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R156-55a. Utah Construction Trades Licensing Act Rule
3. Purpose of the new rule or reason for the change:
The purpose of this rule filing is to comply with the changes established by S.B. 23 (2020), S.B. 201 (2020), S.B. 153 (2020), H.B. 297 (2020), and S.B. 153 (2019), and to make substantive and other technical changes as approved by the Construction Services Commission.
4. Summary of the new rule or change:
In Section R156-55a-102, the changes make technical changes to the definitions that are no longer used in the rules and corrects cross-references.
In Section R156-55a-301, the changes make technical changes to the classifications, including elimination of superfluous language, clarifying scopes of practice, and correction of cross-references. More substantive changes are detailed as follows: E100 contractor classification is clarified to include the scope of practice of the B100 classification. B100 contractor classification is clarified to include the scope of practice of the E100 classification. The AARST-NRPP certification is not statutorily required and its reference is removed from the section and applicable scopes of practice. The NABCEP certification is a certification that is not statutorily required and its reference is removed from the section and applicable scopes of practice. The S220 Carpentry and Flooring contractor classification is clarified that it includes aluminum, polyethylene, thermoplastics, trim and rubber and rubber composites. The S280 Roofing contractor classification is clarified to include any material attached to the roof. The S310 Foundation, Excavation, and Demolition contractor classification is clarified to include rock, smashing, and crushing. The S330 Landscape and Recreation Contractor classification is clarified to include flag poles, pergola, bowling alley, playground equipment, rock climbing walls, shooting ranges, scoreboards, incidental excavation, and that the S330 contractor may hire and subcontract with an RMGA-certified contractor for any gas related work. The

S330 Landscape and Recreation Contractor classification is also clarified to include installation of a backflow prevention device provided that the contractor completes 2 hours of CE related to backflow preventer installation every renewal cycle.

The S410 Boiler, Pipeline, Waste Water, and Water Conditioner contractor classification is clarified to include non-culinary water and gasses except for natural gas that requires an RMGA certificate. The S410 Boiler, Pipeline, Waste Water, and Water Conditioner contractor classification is also clarified to include installation of a backflow prevention device provided that the contractor completes 2 hours of CE related to backflow preventer installation every renewal cycle.

Clarify that the B100 primary classification includes the B200 and R200 subclassifications.

The definition of activities that do not significantly impact the public health, safety, and welfare and therefore do not require a contractor license is expanded to include: installation of a satellite dish or communication devices on or within a building, installation of blinds, shutters, or other window coverings, vinyl sheet tile, vinyl plank flooring, cleaning of duct work, dustless blasting, lock-smithing, door locks, door access controls, or other door or cabinetry hardware, yurt or membrane-covered frame structures, and installation of art or sculptures under 20 feet in height.

Section R156-55a-302b includes experience working for a railroad corporation as experience in the construction industry. The AARST-NRPP and NABCEP certification is not statutorily required and its reference is removed from the section and applicable scopes of practice.

In Section R156-55a-302d, the changes eliminate superfluous language in the rule.

In Section R156-55a-302f, the changes clarify that the prelicensure course program reporting sheets are not provided by the Division of Occupational and Professional Licensing (Division) but are instead approved by the Division. Eliminates the disciplinary proceedings related to the prelicensure course providers as they are named in statute and not subject to discipline by the Division. Clarifies the exemptions from the prelicensure course to include a person that is or has been on an active and unrestricted Utah contractor's license.

In Section R156-55a-303b, the changes add requirements that the S330 Landscape & Recreation Contractor and the S410 Boiler, Pipeline, Waste Water, and Water Conditioner contractor classification must complete at least 2 of their 6 hours of CE in CE related to backflow preventer installation and repair every renewal cycle. Clarifies that the contractors whose renewal cycles end after January 1, 2020, are the contractors who must complete at least 1 of their 6 CE hours in energy conservation. Clarifies that CE monitoring by the Division is not limited to a random basis.

In Section R156-55a-305a, the changes clarify that the handyman exemption registration requires answering qualifying questions in addition to identity of applicant and signed statement.

In Section R156-55a-306, the changes clarify that financial responsibility requirement of contractors includes but is not limited to the items identified in the rule. Expands the review to include child support obligations and restitution orders. Eliminates unnecessary credit report language and simplifies the requirement to provide a credit report acceptable to the Division.

In Section R156-55a-311, the changes clarify that the conversion from one entity to another for contractor license purposes includes articles of conversion, which cannot merely be filed but must be approved by the Division of Corporations.

In Section R156-55a-312, the changes make technical changes to update cross-references, and clarify that the requirements for reactivating a contractor license include completing all continuing education requirements that are not satisfied at the prior renewal, and clarifying that the contractor laws and rules exam is not required to be taken again each time a license is changed from inactive to active.

In Section R156-55a-501, the changes provide that it is unprofessional conduct for a licensee to fail to provide an interview to the Division within 30 days of a request for an interview to determine compliance with Title 58, Chapter 55, or Title 58, Chapter 1, of the Utah Code. Clarifies that an owner, qualifier, or licensee that is a subject matter expert for an exam review may instruct a person or applicant on the contractor business and law exam only if they obtain permission from the Division. Amends unprofessional conduct to include failure of employees of a licensee to properly identify the name of their employer when requested by the Division and that it is unprofessional conduct to reproduce or transmit any Division required test content in any form to any person without Division permission.

In Section R156-55a-503, the changes eliminate the administrative fine schedule as unnecessary because the fine amounts are established in statute with the recently passed legislation of S.B. 23 (2020).

In Section R156-55a-602, the changes clarify the current practice of determining the contractor bond amount for financial responsibility as either the greater of 30% of the outstanding obligations or certain minimum bond requirements already in rule.

In Section R156-55a-700, the changes pursuant to S.B. 23 (2020), establish conditions for emergency contractor licensure in the event of a declared emergency.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

No state agencies shall be directly or indirectly affected by these rule changes because the proposed changes will not

result in any significant increase or decrease in administrative costs or revenue compared to the currently anticipated costs and revenues. Additionally, there are no state government entities acting as businesses that will be significantly impacted by these changes.

B) Local governments:

Local governments will neither enforce nor be affected by the processes and requirements implemented by these rules, nor will local governments be indirectly impacted because none of the amendments create a situation requiring services from local governments. Therefore, no costs or savings to local government are anticipated.

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

The changes that are grammatical or nonsubstantive are estimated to have no impact on small businesses. As for the substantive changes, the U.S. Census North American Industry Classification System (NAICS) was searched and several relevant NAICS codes were identified including: 236115, 236116, 236117, 236118, 236210, 236220, 237120, 237990, 238111, 238112, 238121, 238122, 238131, 238132, 238141, 238142, 238151, 238152, 238161, 238162, 238171, 238172, 238191, 238211, 238212, 238221, 238222, 238311, 238312, 238321, 238322, 238331, 238332, 238341, 238342, 238351, 238352, 238381, 238392, 238911, 238912, 238991, 238992. DWS Firm Find was referenced in compiling this information. DWS Firm Find indicates that a total of 216 medium and large businesses and 9,781 small businesses in Utah will be covered by these rule changes. Notwithstanding the number of small businesses, based on the NAICS codes, the analysis herein does not change. With respect to the substantive changes:

First, small businesses may be impacted by the expanded or clarified scope of practice for the various classifications. These impacts are impossible to determine because the clarification and expansion of the applicable classifications does not necessarily result in a net increase or decrease of cost or value to the licensee or applicant as there is no way to determine if they will actual practice in the expanded or clarified scope beyond their current work.

Second, small businesses may be impacted by the clarified classifications and expanded scopes of practice, which may reduce the number of potential fines to small businesses for practicing beyond the scope of licensure.

However, since it is impossible to determine whether the clarified classifications or expanded scopes of practice will increase compliance with the unprofessional conduct provisions, there is no direct cost attributable to these changes. Future violations of unprofessional conduct cannot be quantified. Although the administrative fine schedule has been modified, the statute has not significantly changed from the maximum fines allowed. Based on the fiscal note from the Legislature, no cost increase was attributed to any individuals or business.

Some contractor license classifications included expansions of their scope of practice, creating more opportunities for licensed companies to practice their trade. There were only two instances where the scope of practice was negatively affected: landscape contractors having to take CE regarding a plumbing practice, and contractors working with gas to comply with statutory Rocky Mountain Gas Association (RMGA) training. Each of these scenarios were an attempt to comply with existing statutes and shouldn't affect the economics of these professionals other than requiring a relatively small amount of training.

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

The impact to non-small business will be the same as the impact to small business because contractor licensing under Title 58, Chapter 55, and Utah Administrative Code Rule R156-55a does not differentiate between these types of businesses for licensing or enforcement purposes. Based on the fiscal note from the Legislature, no cost increase was attributed to any individuals or 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**):

With respect to the changes that are grammatical or non-substantive, those changes will have no impact on persons other than small businesses, non-small businesses, state, or local government entities. With respect to other changes, there is no perceivable impact of these rule amendments on small businesses, non-small businesses, state, or local government entities. Based on the fiscal note from the Legislature, no cost increase was attributed to any individuals or business.

F) Compliance costs for affected persons:

This rule is not expected to impact affected persons beyond what was already described in the underlying fiscal notes for the underlying statutory enactments.

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

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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:

The Division and the Construction Services Commission is proposing multiple substantive and clarifying amendments to the Utah Construction Trades Licensing Act Rule to comply with the changes established by the 2020 Utah General Legislative Bills.

Small Businesses (less than 50 employees):

In Utah, there are 216 medium and large businesses and 9,781 small businesses that will be affected by these rule amendments (NACIS Codes 236115, 236116, 236117, 236118, 236210, 236220, 237120, 237990, 238111, 238112, 238121, 238122, 238131, 238132, 238141, 238142, 238151, 238152, 238161, 238162, 238171, 238172, 238191, 238211, 238212, 238221, 238222, 238311, 238312, 238321, 238322, 238331, 238332, 238341, 238342, 238351, 238352, 238381, 238392, 238911, 238912, 238991, 238992). Small businesses may be impacted however the impacts are impossible to determine because the clarification and expansion of the applicable classifications does not necessarily result in a net increase or decrease of cost, or value to the licensee or applicant, as there is no way to determine if they will actual practice in the broadened scope beyond their current work. Further, small businesses may be impacted by the classifications and expanded scopes of practice, which may reduce the number of potential fines to small businesses for practicing beyond the scope of licensure.

The Division notes two instances where the scope of practice may be negatively affected by the expansion of scope in 1) landscape contractors having to take continuing education ("CE") regarding plumbing practice, and 2) contractors working with gas to comply with statutory Rocky Mountain Gas Association ("RMGA") training. Each of these are an attempt to comply with existing statutes and should not affect the economics of these professionals other than requiring a relatively small amount of training. No other impact to the state is expected beyond a minimal cost to the Division to disseminate the rules once the proposed amendments are made effective. Accordingly, no fiscal impact is expected for small businesses over and above any fiscal impact described in the fiscal note from the Legislature as these costs are either inestimable or there is no fiscal impact.

Regulatory Impact to Non-Small Businesses (50 or more employees)

The proposed rules for the Utah Construction Trades Licensing Act Rule are expected to impact non-small businesses in the same manner as mentioned for small business. Based on the fiscal note from the Legislature, no cost increase was attributed to any individuals or business as to the costs being inestimable for the reasons stated, 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 58-5-106(1)(a)	Subsection 58-1-202(1)(a)	Section 58-55-101
Subsection 58-55-308(1)(a)	Subsection 58-55-102(39)(a)	

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: 09/14/2020

B) A public hearing (optional) will be held:

On:	At:	At:
08/26/2020	9:00 AM	Heber Wells Bldg, 160 E 300 S via electronic meeting only with the Construction Services Commission, Salt Lake City, UT. Note: Google Meeting electronic information will be on the Construction Services Commission meeting agenda for the August 26, 2020 meeting date.

10. This rule change MAY become effective on:	09/21/2020
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:	Mark B. Steinagel, Division Director	Date:	07/07/2020
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R156. Commerce, Occupational and Professional Licensing. R156-55a. Utah Construction Trades Licensing Act Rule. R156-55a-102. Definitions.

In addition to the definitions in Title 58, Chapter[s] 1, Division of Occupational and Professional Licensing Act, and Chapter 55, Utah Construction Trades Licensing Act, as defined or used in this rule:

(1) ~~["AARST NRPP" means the National Radon Proficiency Program.~~

~~(2) "Construction trades instructor", as used in Subsection 58-55-301(2)(t) [is clarified to] means the education facility [which] that is issued the license under Subsection R156-55a-302e [as a construction trades instructor]. It does not mean individuals employed by the facility who may teach classes.~~

~~(3) "Construction trades instruction facility" means the facility [which] that is granted the license [as a construction trades instructor] as specified in Subsection 58-55-301(2)(t) and R156-55a-302e [as clarified in R156-55a-102(2)].~~

(4) "Employee", as used in Subsections 58-55-102(13) and 58-55-102(18), means a person providing labor services in the construction trades who works for a licensed contractor, or the substantial equivalent of a licensed contractor as determined by the Division, for compensation who has federal and state taxes withheld and workers' compensation and unemployment insurance provided by the person's employer.

(5) "Incidental", as used in Subsection 58-55-102(45), means work [which] that:

(a) can be safely and competently performed by a specialty contractor;

(b) arises from, and is directly related to, work performed in the licensed specialty classification;

(c) does not exceed 10 percent of the overall contract; and
 (d) does not include performance of any electrical or plumbing work.

(6) "Maintenance" means the repair, replacement and refinishing of any component of an existing structure; but, does not include alteration or modification to the existing weight-bearing or structural components.

(7) "Mechanical", as used in Subsections 58-55-102(22) and 58-55-102(35), means the work [which] that may be performed by a ~~[S350 HVAC Contractor under Section R156-55a-304]~~ contractor under Subsection R156-55a-301(2)(s). [

~~(8) "NABCEP" means the North American Board of Certified Energy Practitioners.]~~

(9) "NASCLA" means the National Association of State Contractors Licensing Agencies. [

~~(10) "NRSB" means the National Radon Safety Board.]~~

(11) "Personal property" means, as it relates to Title 58, Chapter 56, ~~[factory built housing and modular construction]~~ Building Inspector and Factory Built Housing Licensing Act, a structure [which] that is titled by the Motor Vehicles Division, state of Utah, and taxed as personal property.

(12) "Qualifier", as used in Title 58, Chapter 55, Utah Construction Trades Licensing Act, and this rule, means the individual who demonstrates competence for a contractor ~~[or construction trades instruction facility]~~ license by satisfying the requirements to obtain the contractor ~~[or construction trades instruction facility]~~ license.

(13) "RMGA" means the Rocky Mountain Gas Association.

(14) "School" means a ~~[Utah]~~ school district, technical college, or accredited college.

R156-55a-301. License Classifications - Scope of Practice.

(1) In accordance with Subsection 58-55-301(2), the classifications of licensure are listed and described in this section. The contractor classifications listed are those determined to significantly impact the public health, safety, and welfare. A person engaged in work included in Subsections R156-55a-301(7) and (8) is exempt from licensure in accordance with Subsection 58-55-305(1)(i).

(2) Licenses shall be issued in the following primary classifications and subclassifications:

(a) E100 - General Engineering Contractor. A contractor licensed to perform work under this Subsection (2)(a) as defined in Subsection 58-55-102(24). The scope of practice of a contractor under this Subsection (2)(a) includes the scope of practice of a contractor under Subsection (2)(b).

(b) B100 - General Building Contractor. A contractor licensed to perform work under this Subsection (2)(b) as defined in Subsection 58-55-102(22). The scope of practice of a contractor under this Subsection (2)(b) includes the scope of practice of every specialty contractor in Subsection R156-55a-301(2) and includes the scope of practice under Subsection (2)(a). ~~[except:~~

~~(a) activities described in this Subsection under specialty classification S202 Solar Photovoltaic Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the NABCEP; and~~

~~(b) activities described in this Subsection under specialty classification S354 Radon Mitigation Contractor, unless:~~

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~~(i) the work is performed under the immediate supervision of an employee who holds a current certificate issued by the NRSB or the AARST NRPP; or~~

~~(ii) the work is limited to installation of passive radon gas controls on new construction in accordance with Appendix F of the International Residential Code.]~~

~~(c) B200 - Modular Unit Installation Contractor. [Set up or installation of modular units]A contractor under this Subsection (2)(c) may set up or install a modular unit as defined in Subsection 15A-1-302(8) and constructed in accordance with Section 15A-1-304. [The]A contractor's scope of practice under this Subsection (2)(c):~~

~~(a)i includes construction of the permanent or temporary foundations, placement of the modular unit on a permanent or temporary foundation, securing the units together, if required, and securing the modular units to the foundations; and~~

~~(b)ii excludes installation of factory built housing and connection of required utilities.~~

~~(d) R100 - Residential and Small Commercial Contractor. A contractor under this Subsection (2)(d) is licensed to perform work as defined in Subsection 58-55-102(35). [The scope of practice does not include:~~

~~(a) activities described in this Subsection under specialty classification S202 Solar Photovoltaic Contractor, unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the NABCEP; and~~

~~(b) activities described in this Subsection under specialty classification S354 Radon Mitigation Contractor, unless:~~

~~(i) the work is performed under the immediate supervision of an employee who holds a current certificate issued by the NRSB or the AARST NRPP; or~~

~~(ii) the work is limited to installation of passive radon gas controls on new construction in accordance with Appendix F of the International Residential Code.]~~

~~(e) R101 - Residential and Small Commercial Non Structural Remodeling and Repair. [Remodeling and repair to]A contractor under this Subsection (2)(e) includes remodeling and repairing any existing structure built for support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind, with the restriction that:~~

~~(a)i no change is made to the bearing portions of the existing structure, including footings, foundation, and weight bearing walls; and~~

~~(b)ii the entire project is less than \$50,000 in total cost, including materials and labor.~~

~~(f) R200 - Factory Built Housing Contractor. [Disconnection,]A contractor under this Subsection (2)(f) may disconnect, setup, install[ation], or [removal of]remove manufactured housing on a temporary or permanent basis. [The scope of work:]~~

~~(a)i A contractor's scope of practice under this Subsection (2)(f) includes:~~

~~(A) placing the manufactured housing on a permanent or temporary foundation[;];~~

~~(B) securing the units together if required[;];~~

~~(C) securing the manufactured housing to the foundation[; and]~~

~~(D) connecting the utilities from the near proximity, such as a meter, to the manufactured housing unit[;]; and~~

~~(E) construction of foundations of less than four feet six inches in height;~~

~~(b)ii A contractor's scope of practice under this Subsection (2)(f) excludes:~~

~~(A) preparation or finishing[;];~~

~~(B) excavation of the ground in the area where a foundation is to be constructed, back filling, and grading around the foundation[;];~~

~~(C) construction of foundations of more than four feet six inches in height[;]; and~~

~~(D) construction of utility services from the utility source, to and including the meter or meters if required, or if not required to the near proximity of the manufactured housing unit from which they are connected to the unit.~~

~~(g) E200 - General Electrical Contractor. A contractor under this Subsection (2)(g) is licensed to perform work as defined in Subsection 58-55-102(23). [The scope of practice does not include activities described in this Subsection under specialty classification S354 Radon Mitigation Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the NRSB or the AARST NRPP.]~~

~~(h) E201 - Residential Electrical Contractor. A contractor under this Subsection (2)(h) is licensed to perform work as defined in Subsection 58-55-102(37). [The scope of practice does not include activities described in this subsection under specialty classification S354 Radon Mitigation Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the NRSB or the AARST NRPP.]~~

~~(i) S202 - Solar Photovoltaic Contractor. [Fabrication,]A contractor's scope of practice under this Subsection (2)(i) includes fabrication, construction, installation, and replacement of photovoltaic modules and related components, subject to the following:~~

~~(a)i [An S202 Solar Photovoltaic Contractor shall hold a current certificate issued by NABCEP.~~

~~(b) [Wiring]wiring, connections, and wire methods as governed in the National Electrical Code and Subsection R156-55b-102(1) shall only be performed by [an E200 General Electrical Contractor or E201 Residential Electrical Contractor]a contractor under Subsection (2)(g) or a contractor under Subsection (2)(h); and[;]~~

~~(c) S202 Solar Photovoltaic Contractor licensure is not required to install standalone solar systems that do not tie into premises wiring or into the electrical utility, such as signage or street or parking lighting.]~~

~~(d)ii [An S202 Solar Photovoltaic Contractor may subcontract with an E200 General Electrical Contractor or E201 Residential Electrical Contractor for their projects]a contractor under Subsection (2)(i) may subcontract or hire a contractor under Subsection (2)(g) or a contractor under Subsection (2)(h).~~

~~(j) P200 - General Plumbing Contractor. A contractor licensed to perform work as defined in Subsection 58-55-102(25). [The scope of practice:~~

~~(a) [A contractor's scope of practice under this Subsection (2)(j) includes the furnishing of materials, fixtures, and labor to extend service from a building out to the main water, sewer, or gas pipeline[;]; and~~

~~(b) does not include activities described under specialty classification S354 Radon Mitigation Contractor, unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the NRSB or the AARST NRPP.]~~

~~(k) P201 - Residential Plumbing Contractor. A contractor under this Subsection (2)(k) is licensed to perform work as defined in Subsection 58-55-102(42). [The Residential Plumbing Contractor~~

~~scope of practice does not include activities described in this subsection under specialty classification S354 Radon Mitigation Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the NRSB or the AARST NRPP.~~

~~(l) S220 - Carpentry and Flooring Contractor. [The scope of practice includes the construction.] A contractor's scope of practice under this Subsection (2)(l) includes construction, fabrication, installation, placing, tying, welding,[-] or repair using:~~

~~([a]i) [using -] wood, wood products, metal, aluminum, metal products, metal studs, vinyl materials, plastic, rubber, fiberglass, polyethylene, thermoplastic polymers, countertops, cabinets, millwork, garage doors, doors, trim, tub liners, wall systems, partitions, or other wood [plastic/metal composites as], plastic, rubber, or metal composite or any composite that is by custom and usage accepted in the building industry as carpentry for structural, non-structural, and finish purposes;~~

~~([b]ii) metal or steel structures and sheet metal, including metal cornices, marquees, metal soffits, flashings, skylights, and skydomes;~~

~~([e]iii) metal structural studs and bearing walls, reinforcing bars, erecting shapes, plates of any profile, perimeter cross-section that are used in structures, including riveting, welding, and rigging;~~

~~([d]iv) incidental concrete work and footings, grading, and surface preparation related to [any Carpentry and Flooring Contractor scope of work] the scope of work of a contractor under Subsection (2)(l);~~

~~([e]v) laminate, tile, cement, wood, synthetic wood, or similar flooring product, including prefinished and unfinished material, sanding, staining and finishing of new and existing flooring, the underlayment, and subfloors; and~~

~~([f]vi) mechanical insulation of pipes, ducts, or conduits.~~

~~(m) S230 - Masonry, Siding, Stucco, Glass, and Rain Gutter Contractor. [The scope of practice includes the construction.] A contractor's scope of practice under this Subsection (2)(m) includes construction, fabrication, and installation of:~~

~~([a]i) siding, stucco, stucco to lathe, plaster, glass, glass substitutes, glass-holding members, rain gutters, drains, roof flashings, gravel stops, and metal ridges;~~

~~([b]ii) natural or synthetic stone, onyx, ceramic, granite, onice, corian, brick, block, forms, brick substitutes, clay, concrete blocks, terra-cotta, marble, tile, gypsum tile, glass block, clay tile, copings, plastic refractories, and castables; and~~

~~([e]iii) shower pans.~~

~~(n) S260 - Asphalt and Concrete Contractor. [Fabrication.] A contractor's scope of practice under this Subsection (2)(n) includes fabrication, construction, mixing, batching, injecting, spraying, resurfacing, sealing, and [✗] installation of asphalt, asphalt overlay, chip seal, fog seal, slurry seal, concrete, gunnite, grouting, coatings, sealant, and related concrete products along with the placing and setting of screeds for pavement for flatwork, the construction of forms, shoring material, placing and erection of bars for reinforcing and application of plaster and other cement-related products. [The] A contractor's scope of practice under this Subsection (2)(n) also includes:~~

~~([a]i) excavation, grading, compacting, and laying of fill or [base related thereto] other related base;~~

~~([b]ii) painting or coating the surfaces, including striping, directional, and other types of symbols or letters; and~~

~~([e]iii) fabrication, construction, and [✗] installation of forms and shoring material.~~

~~(o) S270 - Drywall, Paint, and Plastering Contractor. [The scope of practice includes the construction.] A contractor's scope of practice under this Subsection (2)(o) includes construction, installation, fabrication, and application of:~~

~~([a]i) drywall, gypsum, wallboard panels and assemblies, lightweight metal and non-bearing wall partitions, ceiling tile and panels, and the grid system required for placement[-];~~

~~([b]ii) insulating media in buildings and structures for [the purpose of -] temperature control, sound control, fireproofing, mechanical insulation of pipes, ducts, or conduits;[- and]~~

~~([e]iii) stucco, stucco to lathe, plaster, and other surfaces; and~~

~~([d]iv) paints, varnishes, shellacs, stains, waxes and other coatings or pigments.~~

~~(p) S280 - Roofing Contractor. A contractor's scope of practice under this Subsection (2)(p) includes:~~

~~(i) [A] application and installation of asphalt, pitch, tar, felt, flax, shakes, shingles, roof tile, slate, and any other material or materials, or any combination of [the above] these materials [which] that use and custom has established as usable for, or [which] that are now used as, water-proof, weatherproof, or watertight seal or membranes for roofs and surfaces;[- and roof conversion; non-electrical skylights; and electrical skylights provided that the electrical connection is performed by a licensed electrical contractor. The scope of practice includes];~~

~~(ii) any material attached to the roof;~~

~~(iii) roof conversion;~~

~~(iv) installation of non-electrical skylights;~~

~~(v) installation of electrical skylights, if the electrical connection is performed by a contractor under Subsection (2)(g) or (2)(h);~~

~~(vi) installation of any insulating media in buildings and structures for the sole purpose of temperature control, sound control, fireproofing, and mechanical insulation of pipes, ducts, or conduits[-]; and~~

~~(vii) [Incidental work includes] incidental work including the installation of a roof clamp ring to the roof drain.~~

~~(q) S310 - Foundation, Excavation, and Demolition Contractor. [The scope of practice includes.] A contractor's scope of practice under this Subsection (2)(q) includes:~~

~~([a]i) moving of the earth's surface and rock or placing earthen materials on the earth's surface, by use of hand or power machinery and tools, including explosives, in any operation of cut, fill, excavation, grading, trenching, backfilling, smashing, crushing, or combination thereof as they are generally practiced in the construction trade;[- and]~~

~~([b]ii) excavation, drilling, compacting, pumping, sealing and other work necessary to construct, alter, or repair piers, piles, footings, and foundations placed in the earth's subsurface to prevent structural settling and to provide an adequate capacity to sustain or transmit the structural load to the soil or rock below; and~~

~~([e]iii) raising, cribbing, underpinning, moving, and removal of a building, structure, or matter appurtenant or incidental to any building or structure.~~

~~(r) S330 - Landscape and Recreation Contractor. [- This scope of practice includes the following construction, fabrication, and installation.] A contractor's scope of practice under this Subsection (2)(r) includes the following:~~

~~([a]i) The grading and preparing of land for architectural, horticultural, or decorative treatment[?].~~

~~([b]ii) The arrangement, and planting of gardens, lawns, shrubs, vines, bushes, trees, or other decorative vegetation[?].~~

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(iii) construction, fabrication, and installation of:

([e]A) swimming pools, prefabricated pools, spas, decorative pools, tanks, fountains, sprinkler systems, and water distribution systems for artificial watering or irrigation, for systems that are not connected to the culinary water system, or, if water delivery for the system is, that are connected to the culinary water system but and separated from the culinary water system by a backflow prevention device, the contractor may connect the system to the backflow prevention device, if the backflow prevention device is installed by an actively licensed plumber;

([d]B) metal fireboxes, fireplaces, and wood or coal-burning stoves, including the installation of venting and exhaust systems, provided if the individual performing the installation is RMGA-certified;

([e]C) retaining walls except retaining walls which that are intended to hold vehicles, structures, equipment or other non-natural fill materials within the area located within a 45 degree angle from the base of the retaining wall to the level of where the additional weight bearing vehicles, structures, equipment or other non-natural fill materials are located;

([f]D) pergolas, patios, patio areas, and decking, including the deck structure and substructure;

([g]E) hothouses, greenhouses, walks, and garden lighting of class two or class three power-limited circuits as defined in the National Electrical Code;

([h]F) flag poles, fences, guardrails, handrails, and barriers;

([i]G) sports and athletic courts, ranges, and fields including football fields, tennis courts, racquetball courts, handball courts, basketball courts, bowling alleys, shooting ranges, running tracks, playgrounds, playground equipment, rock climbing walls, or any similar court, or field, surface, or related components; this includes poles, standards, surface painting or coatings, floors, floor subsurface, wall surface, perimeter walls, perimeter fencing, scoreboards, or other equipment; and

([j]H) incidental concrete, excavation, or asphalt work related to any Landscape and Recreation Contractor scope of practice the scope of practice under Subsection (2)(r).

([k]iv) This classification A contractor's scope of practice under Subsection (2)(r) does not include any electrical or plumbing trade work, but an S330 Landscape and Recreation Contractor may subcontract with a plumbing and electrical contractor for their projects. A contractor under Subsection (2)(r) may hire or subcontract with a contractor licensed under Subsections (2)(g) or (2)(h) or (2)(i) or (2)(k) for their projects.

(v) A contractor's scope of practice under Subsection (2)(r) does not include any natural gas-related work. A contractor under Subsection (2)(r) may hire or subcontract with an RMGA-certified licensed contractor for any natural gas-related work for their projects.

(vi) A contractor's scope of practice under Subsection (2)(r) includes the installation of a backflow preventer device if during each renewal period after initial licensure, the licensee completes at least two of their six continuing education hours pursuant to Section R156-55a-303b in continuing education related to backflow installation.

(s) S350 - HVAC Contractor. Fabrication A contractor's scope of practice under this Subsection (2)(s) includes the following:

(i) The fabrication and installation of complete warm air heating, air conditioning and ventilating systems. This scope of practice includes. (ii) The installation of refrigeration equipment, including built-in refrigerators, refrigerated rooms, insulated refrigerated spaces and equipment related thereto other related

~~equipment. The scope of practice does not include activities described under S354 Radon Mitigation Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the NRSB or the AARST-NRPP.~~

(iii) An HVAC Contractor A contractor under Subsection (2)(s) may shall hire or subcontract with an RMGA-certified licensed contractor for any gas-related work.

(iv) The A contractor's scope of practice under Subsection (2)(s) does not include electrical or plumbing trade work. A contractor under Subsection (2)(s) may hire or subcontract with a contractor licensed under Subsections (2)(g) or (2)(h) for their projects.

(t) S354 - Radon Mitigation Contractor. Layout A contractor's scope of practice under this Subsection (2)(t) includes the layout, fabrication, and installation of a radon mitigation system. Work performed under this classification shall be performed under the immediate supervision of an employee who holds a current certificate issued by the NRSB or the AARST-NRPP. The A contractor's scope of practice under this Subsection (2)(t) does not include:

([a]i) work on heat recovery ventilation or makeup air components that must be performed by an HVAC Contractor a contractor under Subsection (2)(s); or

([b]ii) electrical trade work that must be performed by an Electrical Contractor a contractor licensed under Subsections (2)(g) or (2)(h).

(u) S370 - Fire Suppression Systems Contractor. Layout A contractor's scope of practice under this Subsection (2)(u) includes the layout, fabrication, and installation of fire protection systems using water, steam, gas, or chemicals. When If a potable sanitary water supply system is used as the source of supply, connection to the water system must shall be accomplished by a licensed plumbing contractor contractor under Subsections (2)(j) or (2)(k). Excluded from this classification are persons engaged in the The scope of practice does not include installation of fire suppression systems in hoods above cooking appliances.

(v) S410 - Boiler, Pipeline, Waste Water, and Water Conditioner Contractor. The scope of practice includes the A contractor's scope of practice under this Subsection (2)(v) includes the following:

(i) The fabrication, construction, and installation of:

([a]A) pipes, conduit, or cables for the conveyance and transmission from one station to another of such products as water, steam, gases except for natural gas which requires an RMGA certificate holder to conduct the work, chemicals, slurries, other substances, data or communications, geo-thermal systems, or solar thermal systems up to where the system interfaces with any other plumbing system;

([b]B) installation of above and below ground petroleum and petro-chemical storage tanks, piping, dispensing equipment, monitoring equipment, and associated petroleum and petro-chemical temperature-control or other equipment for any petroleum, petro-chemical, water, steam, chemicals, slurries, oil, gases except for natural gas which requires an RMGA certificate holder to conduct the work, or other substances including excavation, backfilling, concrete and asphalt;

([e]C) insulation of pipes, ducts, and conduits;

([d]D) excavation, cabling, horizontal boring, grading, trenching, and backfilling necessary for construction of any work related to the Boiler, Pipeline, Waste Water, and Water Conditioner Contractor scope of practice under Subsection (2)(v);

(~~e~~) fire-tube and water-tube power boilers and hot water heating boilers, including ~~all~~ fittings and piping, valves, gauges, pumps, radiators, converters, fuel oil tanks, fuel lines, chimney flues, heat insulation and ~~all~~ other devices, apparatus, and equipment related thereto, in a system not connected to the culinary water system, or connected to the culinary water system but separated from the culinary water system by a backflow prevention device; ~~If water delivery for the system is connected to the culinary water system and separated from the culinary water system by a backflow prevention device, a S410 Boiler, Pipeline, Waste Water, and Water Conditioner Contractor may connect the system to the backflow prevention device, but the device must be installed by an actively licensed plumber;~~

(~~f~~) water conditioning equipment and only such pipe and fittings as are necessary for connecting the water conditioning equipment to the water supply system within the premises;

(~~g~~) sewer, sewer lines, sewage disposal, septic tank, and drainage including excavation and grading with respect thereto, and the construction of sewage disposal plants and appurtenances thereto; and

(~~h~~) incidental excavation, backfill, concrete ~~cement~~ or asphalt work related to the ~~Boiler, Pipeline, Waste Water, and Water Conditioner Contractor~~ scope of practice under Subsection (2)(v).

(ii) A contractor under Subsection (2)(v) shall hire or subcontract with an RMGA-certified licensed contractor for any natural gas-related work.

(iii) The installation of a backflow preventer device if during each renewal period after initial licensure, the licensee completes at least two of their six continuing education hours pursuant to Section R156-55a-303b in continuing education directly related to backflow installation.

(w) S440 - Sign Installation Contractor. ~~Installation~~ A contractor's scope of practice under this Subsection (2)(w) includes installation of electrical or non-electrical signs and graphic displays ~~which~~ that require installation permits or permission as issued by state or local governmental jurisdictions, subject to the following:

(~~a~~) "Signs and graphic displays" ~~includes signs of all types,~~ means any type of sign, including both lighted and unlighted, a permanent highway marker ~~signs, illuminated awnings, electronic message centers, sculptures or graphic representations including logos and trademarks~~ sign, an illuminated awning, an electronic message center, a sculpture or a graphic representation including a logo and trademark intended to identify or advertise the user or product, building trim or lighting with neon or decorative fixtures, and any other animated, moving or stationary device used for advertising or identification purposes.

(~~b~~) "Non-electrical signs and graphics displays" means ~~outdoor advertising signs that do~~ an outdoor sign that does not have electrical lighting or other electrical requirements, and that are fabricated, installed, and erected in accordance with professionally engineered specifications.

(~~c~~) Signs and graphic displays ~~must~~ shall be fabricated, installed and erected in accordance with professionally engineered specifications and wiring in accordance with the National Electrical Code~~;~~.

(~~d~~) The scope of practice under Subsection (2)(w) does not include electrical trade work. A contractor under this Subsection (2)(w) may hire or subcontract with a contractor licensed under Subsection (2)(g) for their projects. ~~but an S440 Sign Installation Contractor may subcontract with an electrical contractor for their projects.~~

(~~x~~) S510 - Elevator Contractor. ~~Erecting~~ A contractor's scope of practice under this Subsection (2)(x) includes erecting, constructing, installing, altering, servicing, repairing or maintaining an elevator.

(y) S700 - Limited Scope License Contractor.
~~(a)~~ A contractor's limited scope license under this Subsection (2)(y) is a license that confines the scope of the allowable contracting work to a specialized area of construction, ~~which the Division grants~~.

(i) The Division may grant a license under Subsection (2)(y) on a case-by-case basis.

(~~b~~) When applying for a ~~limited scope license, an applicant, if requested,~~ license under Subsection (2)(y), an applicant shall submit to the Division the following:

(~~i~~) A ~~detailed statement of the type and scope of contracting work that the applicant proposes to perform and an explanation why the scope of practice is not included in any other current classification; and~~

(~~ii~~) any brochures, catalogs, photographs, diagrams, or other material to further clarify the scope of the work that the applicant proposes to perform.

(3)(a) A specialty license contractor, as defined in Subsection 58-55-102(45), shall be confined to the field and scope of work as outlined by the Division.

(b) A specialty license contractor may hire or subcontract with a specialty license contractor that holds the same classification as the hiring contractor.

(4)(a) A licensee may hold up to three specialty license classifications, in addition to any general contractor classifications, except that ~~an R101 Residential and Small Commercial Non-Structural Remodeling and Repair contractor~~ a contractor under Subsection (2)(c) may not have any other specialty classifications.

(b) A licensee may change classifications at any time by surrendering a ~~license~~ classification, and by applying for any ~~license~~ classification for which the licensee is qualified and as permitted by law.

(c) To qualify for licensure, an applicant for renewal or reinstatement shall surrender or replace the applicant's contractor classifications as needed to comply with Subsection (4)(a).

(5) Effective July 22, 2019:

(a) ~~Contractor licenses that have~~ A contractor license that has the following contractor classification~~s~~ shall be converted to the corresponding classification~~s~~ in Table 1:

TABLE 1

Current Classification	Converted To
P202	S410
P204	S410
P205	S410
P206	S410
P207	S410
P203	S330
E202	S202
S221, S222	S220
S231	S230
S240	S230
S250	S270
S261, S262, S263	S260
S272, S273	S270
S290, S291, S292, S293, S294	S230
S300	S270
S320, S321, S322, S323	S220
S340	S220
S351, S352, S353	S350
S360	S350

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S380	S330
S390	S410
S400	S260
S420, S421	S330
S430	S330
S441	S440
S450	S410
S460	S310
S470	S410
S480	S310
S490	S220
S491	S220
S500	S330
S600	S230
I101	E100
I102	B100
I103	E200
I104	P200
I105	S350

(6) ~~The~~ A contractor's scope of practice for the following primary classifications includes the scope of practice stated in the descriptions for the following subclassifications and a licensee with the following primary classification may hire or subcontract with a licensee with an included subclassification:

TABLE 2

Primary Classification	Included subclassifications
B100	B200, R200
E200	E201, S202
P200	P201
S350	S354
S420	S421
S440	S441
S490	S491

(7) The following activities are determined to not significantly impact the public health, safety and welfare and therefore do not require a contractor's license:

- (a) sandblasting;
- (b) pumping services;
- (c) tree stump or tree removal;
- (d) installation of a satellite dish or communication device on or within a building, [of communication cables] including for phone, internet, [and cable] or television;
- (e) installation of class two or class three power-limited circuits as defined in the National Electrical Code;
- (f) construction of utility sheds, gazebos, or other similar items ~~which~~ that are personal property and not attached to:
 - (i) a residential or commercial building; or
 - (ii) a foundation;
- (g) building cleaning, sanitizing, and window washing, including power washing;
- (h) central vacuum systems installation;
- (i) concrete cutting;
- (j) interior decorating;
- (k) wall paper hanging;
- (l) installation of drapery, blinds, shutters, or other window coverings [and blind installation];
- (m) welding on personal property ~~which~~ that is not attached;
- (n) chimney sweepers other than repairing masonry;
- (o) carpet, ~~and~~ vinyl sheet tile, or vinyl plank floor installation;
- (p) artificial turf installation;
- (q) general cleanup of a construction site ~~which~~ that does not include demolition or excavation;

- (r) installation or removal of weather-stripping but does not include moisture vapor barriers;
- (s) fabrication, installation, or removal of mirrors; ~~and~~
- (t) construction, installation, or removal of awnings and canopies, including attached or detached;
- (u) pallet racking, conveyors, conveyor belts, conveyor systems, or metal shelving, whether attached or detached to the structure, excluding plumbing and electrical trade work; [and]
- (v) seismic strapping for pipes, appliances, and water heaters;

- (w) dustless blasting;
- (x) lock-smithing, including installation or repair of door locks, door access controls, or other door or cabinetry hardware;
- (y) yurt or membrane-covered frame structures as defined in Section 15A-1-204;
- (z) installation of art and artwork, including sculpture, that is not part of the structural components or a building or structure;
- (aa) installation of standalone solar systems that do not tie into premises wiring or into the electrical utility; and
- (bb) lawn aeration, fertilizing, power raking, and dethatching.

(8) The following activities are ~~those~~ determined to not significantly impact the public health, safety and welfare beyond the regulations by other agencies, and therefore do not require a contractor's license:

- (a) lead removal regulated by the Department of Environmental Quality;
- (b) asbestos removal regulated by the Department of Environmental Quality; and
- (c) fire alarm installation regulated by the Fire Marshal.

R156-55a-302b. Qualifications for Licensure - Experience Requirements.

(1) "Experience in the construction industry" as defined in Subsection 58-55-302(1)(e)(ii) is more broad in scope than the definition of "construction trades", and includes experience obtained:

- (a) ~~Experience~~ in the construction industry regardless if paid as a W-2, or as an owner, and regardless of whether licensed or exempt[-];
- (b) ~~Experience~~ while performing construction activities in the military or for a railroad corporation; or [-]
- (c) ~~Experience obtained~~ under the supervision of a construction trades instructor as a part of an educational program ~~is~~ qualifying experience for a contractor's license.

(2)(a) "Two years full-time paid employment", as defined in Subsection 58-55-302~~(1)(e)(ii)(A)~~ (1)(e)(ii)(A), shall be a total of 4,000 hours paid employment.

(b) The following shall satisfy the experience requirement in Subsection 58-55-302(1)(e)(ii)(A):

- (i) a passing score on the NASCLA Accredited Examination for Commercial General Building Contractors;
- (ii) a four-year bachelor's degree or a two-year associate's degree in Construction Management; or
- (iii) a Utah professional engineer license.

~~(3) Requirements for S202 Solar Photovoltaic Contractor. In addition to the requirements of Subsections (1) and (2), an applicant shall hold a current certificate by the NABCEP.~~

~~(4) Requirements for S354 Radon Mitigation Contractor. In addition to the requirements of Subsections (1) and (2), an applicant shall hold a current certificate issued by the NRSB or the AARST-NRPP.~~

R156-55a-302d. Qualifications for Licensure - Proof of Insurance and Registrations.

In accordance with ~~the provisions of~~ Subsection 58-55-302(2)(b), an applicant ~~who is approved~~ for licensure shall submit proof of liability insurance ~~which~~ by means of a certificate of insurance naming the Division as a certificate holder, that:

- (1) provides coverage for the scope of work performed;
- (2) is in force for the entire duration of active licensure;
- and
- (3) ~~in~~ coverage amounts of at least \$100,000 for each incident and \$300,000 in total ~~by means of a certificate of insurance naming the Division as a certificate holder~~.

R156-55a-302e. Requirements for Construction Trades Instructors, Schools and Colleges.

In accordance with Subsection 58-55-302(1)(f), a ~~ny~~ school that provides instruction to students by engaging in the construction trade for the public as part of the instruction ~~is required to~~ shall be a Utah licensed contractor with ~~the~~ classification in the scope of practice in which the students are being instructed.

R156-55a-302f. Pre-licensure Education - Standards.

(1) ~~Qualifier Education Requirement.~~ The 25-hour pre-licensure course required by Subsection 58-55-302(1)(e)(iii) and the five-hour pre-licensure course required by Subsection 58-55-302(1)(e)(iv) shall be completed by the qualifier for a contractor license applicant.

(a) Any approved 20-hour pre-licensure course completed by the qualifier before November 30, 2017 shall be accepted by the Division as satisfaction of the 25-hour and five-hour pre-licensure course requirements in Subsection 58-55-302(1)(e)(iii) and (iv).

(b) Any approved 25-hour pre-licensure course completed by the qualifier before July 1, 2019 shall be accepted by the Division as satisfaction of the 25-hour and five-hour pre-licensure course requirements in Subsection 58-55-302(1)(e)(iii) and (iv).

(2) ~~Content of the 25-hour course.~~ The 25-hour course may include a provider-administered exam at the end of the course for no additional fee, and shall include the following topics and hours of education relevant to the practice of the construction trades consistent with the laws and rules of this state:

- (a) 15 hours of financial responsibility instruction that includes the following:
 - (i) record keeping and financial statements;
 - (ii) payroll, including:
 - (A) payroll taxes;
 - (B) worker compensation insurance requirements;
 - (C) unemployment insurance requirements;
 - (D) professional employer organization ~~(employee leasing)~~ alternatives;
 - (E) prohibitions regarding paying employees on 1099 forms as independent contractors, unless licensed or exempted;
 - (F) employee benefits; and
 - (G) Fair Labor Standard Act;
 - (iii) cash flow;
 - (iv) insurance requirements including auto, liability, and health; and
 - (v) independent contractor licensure and exemption requirements;
- (b) six hours of construction business practices that includes the following:
 - (i) estimating and bidding;
 - (ii) contracts;

- (iii) project management;
- (iv) subcontractors; and
- (v) suppliers;
- (c) two hours of regulatory requirements that includes the following:

- (i) licensing laws;
- (ii) Occupational Safety and Health Administration (OSHA);
- (iii) Environmental Protection Agency (EPA); and
- (iv) consumer protection laws; and
- (d) two hours of mechanic lien fundamentals that include the State Construction Registry.

(3) ~~Content of the five-hour course.~~ The five-hour course shall include five hours of education on the topics covered in the Utah Contractor Business and Law examination. The five-hour course may include a provider-administered exam at the end of the course for no additional fee.

(4) ~~Program Schedule.~~

~~(a)~~ An approved pre-licensure course provider shall offer the 25-hour and five-hour course:

- (i) ~~a~~ at least 12 times per year; ~~and~~
- (ii) ~~b~~ shall comply with Subsection 58-55-102(7)(b); ~~and~~

~~(b)~~ An approved pre-licensure course provider

~~(c)~~ is not obligated to provide a course if the provider determines ~~the~~ enrollment is not sufficient to ~~reach~~ breakeven on cost.

(5) ~~Program Instruction Requirements.~~ The pre-licensure course shall meet the following standards:

(a) ~~Time.~~ Each hour of pre-licensure course credit shall consist of 50 minutes of education in the form of live lectures or training sessions. Time allowed for lunches or breaks may not be counted as part of the course time for which course credit is issued.

(b) ~~Learning Objectives.~~ The learning objectives of the pre-licensure course shall be reasonably and clearly stated.

(c) ~~Teaching Methods.~~ The pre-licensure course shall be presented in a competent and well-~~o~~rganized manner consistent with the stated purpose and objective of the program. The student ~~must~~ shall demonstrate knowledge of the course material.

(d) ~~Faculty.~~ The pre-licensure course shall be prepared and presented by individuals who are qualified by education, training or experience.

(e) ~~Distance Learning.~~ Distance learning, internet courses, and home study courses are not allowed to meet pre-licensure course requirements.

(f) ~~Registration and Attendance.~~ The provider shall have a competent method of registration and verification of attendance of individuals who complete the pre-licensure education.

(g) ~~Education Curriculum and Study/Resource Guide.~~ The provider shall ~~be responsible to~~ provide or develop a pre-licensure course curriculum and study ~~resource~~ guide for the pre-licensure course, and have them pre-approved ~~that must be pre-approved~~ by the Commission and the Division prior to use ~~by the provider~~.

(h) ~~Live Broadcast.~~ The pre-licensure education course may be taught by live broadcast if:

- (i) the student and the instructor are able to see and hear each other; and
- (ii) a representative of the provider is at any remote location to monitor registration and attendance at the course.

(6) ~~[Certificates of Completion.]~~ The pre-licensure course provider shall provide individuals completing the pre-licensure course a certificate that contains the following information:

- (a) the date of the pre-licensure course;
- (b) the name of the pre-licensure course provider;
- (c) the attendee's name;
- (d) verification of completion; and
- (e) the signature of the pre-licensure course provider.

(7) ~~[Reporting of Program Completion.]~~ A pre-licensure course provider shall, within seven calendar days, submit directly to the Division verification of attendance and completion on behalf of persons attending and completing the program. This verification shall be submitted on forms ~~[provided]~~ approved by the Division.

(8) ~~[Program Monitoring.]~~ On a random basis, the Division or Commission may assign monitors at no charge to attend a pre-licensure course for the purpose of evaluating the course and the instructor~~[(s)]~~.

(9) ~~[Documentation Retention.]~~ Each provider shall for a period of four years maintain adequate documentation as proof of compliance with this section and shall, upon request, make such documentation available for review by the Division or the Commission. Documentation shall include:

- (a) the dates of ~~[all]~~ pre-licensure courses that have been completed;
- (b) registration and attendance logs of individuals who completed the pre-licensure course;
- (c) the names of instructors for each course provided as a part of the program; and
- (d) pre-licensure course handouts and materials.

~~(10) Disciplinary Proceedings. As provided in Section 58-1-401 and Subsection 58-55-302(1)(c)(iii), the Division may refuse to renew or may revoke, suspend, restrict, place on probation, issue a public reprimand to, or otherwise act upon the approval of any pre-licensure course provider, if the pre-licensure course provider fails to meet any of the requirements of this section or the provider has engaged in other unlawful or unprofessional conduct.]~~

~~[(H)10]~~ ~~[Exemptions.]~~ In accordance with Subsections 58-55-302(1)(e)(iii) and (iv), the following persons are not required to complete the pre-licensure course program requirements:

- (a) a person holding a four-year bachelor degree or a two-year associate degree in Construction Management from an accredited program;
- (b) a person holding an active and unrestricted Utah professional engineer license;
- (c) a person who is or has been a qualifier on an active and unrestricted Utah contractor license within the past five years; and
- (d) a person who qualifies for licensure by endorsement as a contractor pursuant to Section 58-1-302.

R156-55a-303a. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two year renewal cycle applicable to licensees under Title 58, Chapter 55, Utah Construction Trades Licensing Act, is established by rule in Section R156-1-308a(1).

(2) Renewal procedures shall be in accordance with Section R156-1-308c through R156-1-308l.

(3) In accordance with Subsections 58-55-501(21) and 58-1-308(3)(b)(i) and Section 58-55-302.5, there is established a continuing education requirement for license renewal. Each licensee, or the licensee's qualifier, or an officer, director, or supervising individual, as designated by the licensee, shall comply with the

continuing education requirements set forth in Section R156-55a-303b.

(4) ~~[All contractors]~~ Contractors shall renew their license in an online form approved by the Division, except as permitted by the Division in writing.

R156-55a-303b. Continuing Education - Standards.

(1) ~~[Required Hours.]~~ Pursuant to S~~[ubs]~~ection 58-55-302.5, each licensee shall complete six hours of continuing education during each two-year license term. A minimum of three hours shall be core education; the remaining three hours may be professional education or core education. A minimum of three hours shall consist of live in-class attendance; the remaining three hours may consist of distance learning courses.

(a) Regular attendance by a ~~[e]~~ Commission member on the Construction Services Commission shall satisfy the member's continuing education requirements under Section 58-55-302.5.

(b) ~~[For an HVAC contractor licensee]~~ A contractor under Subsection R156-55a-301(2)(s) shall complete[-] at least three of [the]their six continuing education hours [described in Subsection (1) shall include]in continuing education directly related to the installation, repair, or replacement of a heating, ventilation, or air conditioning system.

(c) A contractor under Subsections R156-55a-301(2)(r) or R156-55a-301(2)(v) that performs installation of a backflow preventer device shall complete at least two of their six continuing education hours in continuing education directly related to backflow installation.

~~[(e)d]~~ ~~[For all e]~~ Contractors with a renewal cycle that ends after January 1, 2020, shall complete at least one of [the]their six continuing education hours [described in Subsection (1) shall include]in energy conservation.

~~[(e)e]~~ "Core continuing education" ~~[is defined as]~~ means education related to construction codes, construction laws, job site safety, OSHA 10 or OSHA 30 safety training, governmental regulations pertaining to the construction trades and employee verification and payment practices, finance, bookkeeping, energy conservation, and construction business practices.

~~[(e)f]~~ "Professional continuing education" ~~[is defined as]~~ means education related to substantive subjects dealing with the practice of the construction trades, including land development, land use, planning and zoning, professional development, arbitration practices, estimating, marketing techniques, servicing clients, personal and property protection for the licensee and the licensee's clients and similar topics.

~~[(f)g]~~ [-] The following course subject matter is not acceptable as core education or professional education hours:

- ~~_____~~ (i) mechanical office and business skills, such as typing, speed reading, memory improvement and report writing;
- ~~_____~~ (ii) physical well-being or personal development, such as personal and business motivation, stress management, time management, dress for success, or similar subjects;
- ~~_____~~ (iii) presentations by a supplier or a supplier representative to promote a particular product or line of products; and
- ~~_____~~ (iv) meetings held in conjunction with the general business of the licensee or employer.

~~[(g)h]~~ The Division may defer or waive the continuing education requirements as provided in Section R156-1-308d.

(2) A continuing education course shall meet the following standards:

(a) ~~[Time.]~~ Each hour of continuing education course credit shall consist of 50 minutes of education in the form of

seminars, lectures, conferences, training sessions or distance learning modules. The remaining ten minutes is to allow for breaks.

(b) ~~[Provider.]~~The course provider shall be among those specified in Subsection 58-55-302.5(2).

(c) ~~[Content.]~~The content of the course shall be relevant to the practice of the construction trades and consistent with the laws and rules of this state.

(d) ~~[Objectives.]~~The learning objectives of the course shall be reasonably and clearly stated.

(e) ~~[Teaching Methods.]~~The course shall be presented in a competent, well organized and sequential manner consistent with the stated purpose and objective of the program.

(f) ~~[Faculty.]~~The course shall be prepared and presented by individuals who are qualified by education, training and experience.

(g) ~~[Distance learning.]~~A course that is provided through Internet or home study may be recognized for continuing education if the course verifies registration and participation in the course by means of a test demonstrating that the participant has learned the material presented. Test questions shall be randomized for each participant. A home study course shall include no fewer than five variations of the final examination, distributed randomly to participants. Home study courses, including the five exam variations, shall be submitted in their entirety to the Division for review. Providers shall track the following:

(i) the amount of time each student has spent in the course;

(ii) what activities the student did or did not access; and

(iii) ~~[all of the]~~student's test scores.

(h) ~~[Documentation.]~~The course provider shall:

(i) have a competent method of registration of individuals who actually completed the course[~~s~~];

(ii) ~~[shall]~~maintain records of attendance that are available for review by the Division; and

(iii) ~~[shall]~~provide individuals completing the course a certificate that contains the following information:

(~~i~~)A ~~[the]~~date of the course;

(~~ii~~)B ~~[the]~~name of the course provider;

(~~iii~~)C ~~[the]~~name of the instructor;

(~~iv~~)D ~~[the]~~course title;

(~~v~~)E ~~[the]~~hours of continuing education credit and type of credit (core or professional);

(~~vi~~)F ~~[the]~~attendee's name; and

(~~vii~~)G ~~[the]~~signature of the course provider.

(i) ~~[Live Broadcast.]~~A course provided through live broadcast may be recognized for live in-class continuing education credit if the student and the instructor are able to see and hear each other.

(3) ~~[On a random basis, the]~~The Division may assign monitors at no charge to attend a course for the purpose of evaluating the course and the instructor.

(4)(a) Each licensee shall maintain adequate documentation as proof of compliance with this section, such as certificates of completion, course handouts and materials. The licensee shall retain this proof for a period of three years from the end of the renewal period for which the continuing education is due.

(b) Each licensee shall assure that the course provider has submitted the verification of attendance to the continuing education registry on behalf of the licensee as specified in Subsection (8). Alternatively, the licensee may submit the course to the continuing education registry for approval and pay any course approval fees and attendance recording fees.

(5) Licensees who lecture in continuing education courses meeting the~~[se]~~ requirements of Section R156-55a-303b shall receive two hours of continuing education for each hour spent lecturing. However, no lecturing or teaching credit is available for participation in a panel discussion.

(6)(a) The continuing education requirements established for electricians, plumbers, and elevator mechanics ~~[as established]~~ in ~~[Subsections]~~Section 58-55-302.7, if offered by a provider specified in Subsection 58-55-302.5(2), shall satisfy the contractor continuing education requirements ~~[for contractors as established in]of~~ S~~[ubs]~~ection 58-55-302.5 and ~~[implemented herein]~~this section.

(b) The contractor licensee shall assure that the course provider has submitted the verification of the electrician's, plumber's or elevator mechanic's attendance on behalf of the licensee to the continuing education registry as specified in Subsection (8).

(7) A course provider shall submit continuing education courses to the continuing education registry and shall submit verification of attendance and completion on behalf of licensees attending and completing the program directly to the continuing education registry in the format required by the continuing education registry.

(8) The Division shall review continuing education courses ~~[which]that~~ have been submitted through the continuing education registry and shall approve only those courses ~~[which]that~~ meet the standards ~~[set forth under]of~~ this [S]section.

(9) As provided in Section 58-1-401 and Subsections 58-55-302.5(2) and 58-55-302.7(4)(a), the Division may refuse to renew or may revoke, suspend, restrict, place on probation, issue a public reprimand to, or otherwise act upon the approval of any course or provider, if the course or provider fails to meet any of the requirements of this section or the provider has engaged in unlawful or unprofessional conduct.

(10) ~~[Continuing Education Registry.]~~

~~(a)]~~The Division shall designate an entity to act as the Continuing Education Registry ~~[under this rule.]~~

~~(b) The]and the~~ Continuing Education Registry, in consultation with the Division and the Commission, shall:

(~~i~~)a through its internet site electronically receive applications from continuing education course providers, and ~~[shall]~~submit ~~[the application for course approval]~~to the Division for review and approval ~~[of]~~only those applications from programs that meet the standards ~~[set forth under]of~~ this [S]section;

(~~ii~~)b publish on their website listings of continuing education programs that have been approved by the Division, and ~~[which]that~~ meet the standards for continuing education credit under this rule;

(~~iii~~)c maintain accurate records of approved qualified continuing education~~[approved]~~;

(~~iv~~)d maintain accurate records of verification of attendance and completion, by individual licensee, ~~[which]that~~ the licensee may review for compliance with this rule; and

(~~v~~)e make records of approved continuing education programs and attendance and completion available for audit by representatives of the Division.

(~~e~~)11) ~~[Fees. A continuing education registry]~~The Continuing Education Registry may charge a reasonable fee to continuing education providers or licensees for services provided for review and approval of continuing education programs.

R156-55a-304. Contractor License Qualifiers.

(1) The capacity and material authority specified in Subsection 58-55-304(4) ~~[is clarified as follows]~~includes the following:

(a) Except as allowed in Subsection ~~(1)~~(1)(b), the qualifier ~~[must]~~shall receive remuneration for work performed for the contractor licensee for not less than 12 hours of work per week~~[;]~~.

(i) If the qualifier is an owner of the business, the remuneration may be in the form of owner's profit distributions or dividends with a minimum ownership of 20 percent of the contractor licensee.

(ii) If the qualifier is an officer or manager of the contractor licensee, the remuneration ~~[must]~~shall be in the form of W-2 wages.

(b) The 12 hour minimum in Subsection ~~(1)~~(1)(a) may be reduced if the total ~~[of all]~~ hours worked by ~~[all]~~the owners and employees is less than 50 hours per week, in which case the minimum may not be less than 20 percent of the total hours of work performed by all owners and employees of the contractor.

(2)(a) A qualifier may hold up to three specialty classifications, in addition to any ~~[general contractor classifications, except that an R101 Residential and Small Commercial Non-Structural Remodeling and Repair qualifier]~~classification under Subsection 58-55-301(2)(a) through (c) and Subsection 58-55-301(2)(e) through (h), except that a qualifier under Subsection R156-55a-301(2)(e) may not have any other specialty classifications.

(b) A qualifier may change classifications at any time by surrendering a classification, and by applying for any classification for which the qualifier is permitted by law.

(c) A current qualifier shall surrender or replace the qualifier's classifications as needed to comply with Subsection (2)(a) at the time of any renewal or reinstatement involving the qualifier.

(3) A qualifier may not act as the qualifier for more than three licensees at any one time, unless:

(a) the qualifier demonstrates by sufficient evidence satisfactory to the Commission and the Division that the qualifier exercises material authority over the businesses; and

(b) the Commission and the Division grant written approval~~[is granted by the Commission and the Division]~~.

R156-55a-305a. Exempt Contractors Filing Affirmation of Liability and Workers Compensation Insurance.

(1) ~~[Initial affirmation.—]~~In accordance with Subsection 58-55-305(1)(h)(ii)(H), a~~[ny]~~ person claiming exemption under Subsection 58-55-305(1)(h) for projects with a value greater than \$1,000 but less than \$3,000 shall file a registration of exemption with the Division ~~[which]~~that includes:

(a) the identity and address of the person claiming the exemption;

~~(b) answers to qualifying questions; and~~

~~(b)~~(c) a statement signed by the registrant verifying:

(i) that the person has liability insurance in force ~~[which]~~that includes the Division being named as a certificate holder, the policy number, the expiration date of the policy, the insurance company name and contact information, and coverage amounts of at least \$100,000 for each incident and \$300,000 in total; and

(ii)~~(A)~~(A) that the person has workers compensation insurance in force ~~[which]~~that names the Division as a certificate holder, includes the policy number, the expiration date of the policy, the insurance company name and contact information; or

~~(iii)~~(B) that the person does not hire employees and is therefore exempt from the requirement to have workers compensation insurance.

~~(2) [Periodic reaffirmations required.—]~~The affirmation required under Subsection (1) shall be reaffirmed on or before November 30 of each odd numbered year.

R156-55a-306. Contractor Financial Responsibility - Division Audit.

In accordance with Subsections 58-55-302(10)(c), 58-55-306, and 58-55-102(20), the Division may consider various relevant factors in conducting a financial responsibility audit of an applicant, licensee, qualifier, or any owner, including:

~~(1)(a)~~(1) judgments, child support obligations, restitution orders, tax liens, collection actions, bankruptcy schedules and a history of late payments to creditors, including documentation showing the resolution of [each of the above actions]any factor under this Subsection (1);

~~(b)~~(2) financial statements and tax returns, including the ability to prepare or have prepared competent and current financial statements and tax returns;

~~(e)~~(3) a~~[n acceptable]~~ current credit report acceptable to the Division;~~[that meets the following requirements:~~

~~(i) for individuals:~~

~~(A) a credit report from each of the three national reporting agencies, Trans Union, Experian, and Equifax; or~~

~~(B) a tri merged credit report of the agencies identified in Subsection (A); or~~

~~(ii) for entities, a business credit report such as an Experian Business Credit Report or a Dun and Bradstreet Report;]~~

~~(d)~~(4) an explanation of the reasons for any financial difficulties and how the financial difficulties were resolved;

~~(e)~~(5) any of the factors listed in S~~[ubs]~~ection R156-1-302 that may relate to failure to maintain financial responsibility;

~~(f)~~(6) each of the factors listed in this Subsection (1) regarding the financial history of the owners of the applicant or licensee;

~~(g)~~(7) any guaranty agreements provided for the applicant or licensee and any owners; and

~~(h)~~(8) any history of prior entities owned or operated by the applicant, licensee, qualifier, or any owner that have failed to maintain financial responsibility.

R156-55a-308b. Natural Gas Technician Certification.

(1) In accordance with Subsection 58-55-308(1), the scope of practice defined in Subsection 58-55-308(2)(a) requiring certification is further defined as the installation, modification, maintenance, cleaning, repair or replacement of the gas piping, combustion air vents, exhaust venting system or derating of gas input for altitude of a residential or commercial gas appliance.

(2) An approved training program shall include the following course content:

(a) general gas appliance installation codes;

(b) venting requirements;

(c) combustion air requirements;

(d) gas line sizing codes;

(e) gas line approved materials requirements;

(f) gas line installation codes; and

(g) methods of derating gas appliances for elevation.

(3) In accordance with Subsection 58-55-308(2)(c)(i), the following programs are approved to provide natural gas technician training, and to issue certificates or documentation of exemption from certification:

(a) Federal Bureau of Apprenticeship Training;

(b) Utah college apprenticeship program;

- (c) ~~[Trade]~~trade union apprenticeship program;
- (d) Rocky Mountain Gas Association; and
- (e) Home Builders Association of Utah.

(4) In accordance with Subsection 58-55-308(3), the approved programs ~~[set forth]~~in paragraphs (3)(b)~~[-(c), -(d), and]~~ through (3) (e) ~~[herein]~~shall require program participants to pass the RMGA Gas Appliance Installers Certification Exam, or equivalent exams approved by the Commission established or adopted by a training program, with a minimum passing score of 80%.

(5) In accordance with Subsection 58-55-308(3), a person who has not completed an approved training program, but has passed the RMGA Gas Exam or approved equivalent exam established or adopted by an approved training program, with a minimum passing score of 80%, or the Utah licensed Journeyman or Residential Journeyman Plumber Exam, with a minimum passing score of 70%, shall be exempt from the certification requirement ~~[set forth]~~in Subsection 58-55-308(2)(c)(i).

(6) ~~[Content of certificates of completion.]~~An approved program shall issue a certificate, including a wallet certificate, to persons who successfully complete their training program containing the following information:

- (a) name of the program provider;
- (b) name of the approved program;
- (c) name of the certificate holder;
- (d) ~~[the]~~date the certification was completed; and
- (e) signature of an authorized representative of the program provider.

(7) ~~[Documentation of exemption from certification.]~~The following shall constitute documentation of exemption from certification:

- (a) certification of completion of training issued by the Federal Bureau of Apprenticeship Training;
- (b) current Utah licensed Journeyman or Residential Journeyman plumber license; or
- (c) certification from the RMGA or approved equivalent exam which shall include the following:
 - (i) name of the association, school, union, or other organization who administered the exam;
 - (ii) name of the person who passed the exam;
 - (iii) name of the exam;
 - (iv) ~~[the]~~date the exam was passed; and
 - (v) signature of an authorized representative of the test administrator.

(8) Each person engaged in the scope of practice defined in Subsection 58-55-308(2)(a) and as further defined in Subsection (1) herein, shall carry in their possession documentation of certification or exemption.

R156-55a-311. Reorganization - Conversion of Contractor Business Entity.

(1) A conversion from one form of entity to another form where "Articles of Conversion" are filed with and approved by the Utah Division of Corporations and Commercial Code shall not require a new contractor application.

(2) Except as provided in Subsection (1), a reorganization of the business entity under which a licensed contractor is licensed shall require application for a new license under the new form of organization or business structure. The creation of a new legal entity constitutes a reorganization, and includes:

- (a) a change to a new entity under the same form of business entity; or

(b) a change of the form of business entity between proprietorship, partnership, whether limited or general, joint venture, corporation, or any other business form.

R156-55a-312. Inactive License.

(1) The requirements for inactive licensure specified in Subsection R156-1-305(3) shall also include certification that the licensee will not engage in the construction ~~[trade(s)]~~trades for which the license was issued while on inactive status except to identify that licensee as an inactive licensee.

(2) A license on inactive status will not be required to meet the requirements of licensure in Subsections 58-55-302(1)(e)(i), 58-55-302.5~~[(2)(a)]~~ and 58-55-302(2)(b).

(3) The requirements for reactivation of an inactive license specified in Subsection R156-1-305(6) shall also include:

(a) documentation that the licensee meets the requirements of Section 58-55-302.5 and Subsections 58-55-302(1)(e)(i)~~[-58-55-302(2)(a)]~~ and 58-55-302(2)(b); and

~~(b) documentation that the licensee has taken and passed the business and law examination and the contractor classification examination, if required, for the contractor classification for which activation is sought]~~

([e]b) prior to a license being activated, a licensee shall complete the continuing education required under Section 58-55-302.5 unless the continuing education required was completed for the last renewal cycle~~[meet the requirements of renewal].~~

R156-55a-501. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) failing to notify the Division with respect to any matter for which notification is required under this rule or Title 58, Chapter 55, the Construction Trades Licensing Act, including a change in qualifier~~[-]~~ which~~[-Such]~~ failure shall be considered by the Division and the Commission as grounds for immediate suspension of the contractor's license;

(2) failing to notify the Division within 10 days of any change of the name, address, phone number, or email address of the qualifier or owners of a licensee;

(3) failing to continuously maintain insurance and registration as required by Subsection 58-55-302(2) and Section R156-55a-302d;

(4) failing to provide within 30 days of a request from the Division or from any person that has a reasonable basis to make a claim on the licensee's insurance policy:

- (a) proof of licensee's insurance coverage;
- (b) the name of the licensee's insurance company, policy number, date of expiration, and insurance coverage limits;
- (c) a copy of the licensee's insurance policy;
- (d) a copy of the licensee's worker compensation policy, if required to maintain worker compensation insurance under Utah law; or
- (e) any exclusions included in the licensee's insurance policy;

(5) failing to provide the Division, within 30 days of a request, documents, an interview, ~~[and]~~or other requested information to determine compliance with ~~[any section under]~~Title 58, Chapter 55, Utah Construction Trades Licensing Act, or Title 58, Chapter 1, Division of Occupational and Professional Licensing Act~~of the Utah Code~~;

(6) refusing, as an electrical or plumbing contractor, to timely and accurately certify the hours of work experience when

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requested by an electrician or plumber who is or has been an employee;

(7) refusing, as a contractor, to timely and accurately certify the work experience for a contractor application when requested by a current or former employee;

(8) failure of a qualifier, owner, applicant, or licensee to be knowledgeable of the laws and rules applicable to their profession;

(9) failing to timely provide, upon request by any person, a copy of a current license or license number when performing construction trades work;

(10) an owner, qualifier, or licensee advising or instructing any person or applicant, for a fee, concerning an examination required under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for which that owner, qualifier, or licensee was a subject-matter expert of the examination, unless: [

~~_____ (a) the owner, qualifier, or licensee is an instructor for an accredited university, college, trade, or technical school; and~~

~~_____ (b)] the [Construction Services Commission] Division approves in writing of the owner, qualifier, or licensee providing that instruction;~~

(11) using, hiring, or contracting with a professional employer organization that is not licensed with the Utah Insurance Department;

(12) failure of an employee of a licensee to properly identify the name of their employer when requested by the Division; and

(13) reproducing, communicating, or transmitting any Division-required test content in any form to any person without written permission from the Division.

R156-55a-503. Administrative Penalties.

~~[_____ (1) In accordance with Subsection 58-55-503, the following fine schedule shall apply to citations issued under Title 58, Chapter 55:~~

TABLE II
FINE SCHEDULE

FIRST OFFENSE

Violation	All Licenses Except	
	Electrical or Plumbing	Electrical or Plumbing
58-55-308(2)	\$ 500.00	N/A
58-55-501(1)	\$ 500.00	\$ 500.00
58-55-501(2)	\$ 500.00	\$ 800.00
58-55-501(3)	\$ 800.00	\$1,000.00
58-55-501(9)	\$ 500.00	\$ 500.00
58-55-501(10)	\$ 800.00	\$1,000.00
58-55-501(12)	N/A	\$ 500.00
58-55-501(14)	\$ 500.00	N/A
58-55-501(19)	\$ 500.00	N/A
58-55-501(21)	\$ 500.00	\$ 500.00
58-55-501(22)	\$ 500.00	N/A
58-55-501(23)	\$ 500.00	N/A
58-55-501(24)	\$ 500.00	N/A
58-55-501(25)	\$ 500.00	N/A
58-55-501(26)	\$ 500.00	N/A
58-55-501(27)	\$ 500.00	N/A
58-55-501(28)	\$ 500.00	N/A
58-55-501(29)	\$ 500.00	N/A
58-55-504(2)	\$ 500.00	N/A

SECOND OFFENSE

58-55-308(2)	\$1,000.00	N/A
58-55-501(1)	\$1,000.00	\$1,500.00
58-55-501(2)	\$1,000.00	\$1,500.00
58-55-501(3)	\$1,600.00	\$2,000.00

58-55-501(9)	\$1,000.00	\$1,000.00
58-55-501(10)	\$1,600.00	\$2,000.00
58-55-501(12)	N/A	\$1,000.00
58-55-501(14)	\$1,000.00	N/A
58-55-501(19)	\$1,000.00	N/A
58-55-501(21)	\$1,000.00	\$1,000.00
58-55-501(22)	\$1,000.00	N/A
58-55-501(23)	\$1,000.00	N/A
58-55-501(24)	\$1,000.00	N/A
58-55-501(25)	\$1,000.00	N/A
58-55-501(26)	\$1,000.00	N/A
58-55-501(27)	\$1,000.00	N/A
58-55-501(28)	\$1,000.00	N/A
58-55-501(29)	\$1,000.00	N/A
58-55-504(2)	\$1,000.00	N/A

THIRD OFFENSE

~~Double the amount for a second offense with a maximum amount not to exceed the maximum fine allowed under Subsection 58-55-503(4)(h).~~

~~_____ (2) Citations shall not be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor.]~~

~~([3]1) If multiple offenses are cited on the same citation, the fine shall be determined by evaluating the most serious offense.~~

~~([4]2) If multiple offenses are cited on separate citations, the fine shall be the maximum fine for each offense.]~~

~~_____ (5) An investigative supervisor may authorize a deviation from the fine schedule based upon the aggravating or mitigating circumstances.]~~

~~([6]3) The presiding officer for a contested citation shall have the discretion, after a review of the aggravating and mitigating circumstances, to increase or decrease the fine amount imposed by an investigator based upon the evidence presented.~~

R156-55a-504. Crane Operator Certifications.

In accordance with Subsection 58-55-504(2)(a)₂ one of the following certifications is required to operate a crane on commercial construction projects:

(1) a certification issued by the National Commission for the Certification of Crane Operators;

(2) a certification issued by the Operating Engineers Certification Program; or

(3) a certification issued by the Crane Institute of America.

R156-55a-602. Contractor License Bonds.

Pursuant to ~~[the provisions of]~~ Subsections 58-55-306(1)(b) and 58-55-306(5)(b)(iii), a contractor shall provide a license bond issued by a surety acceptable to the Division in the amount, form, and coverage as follows:

(1) An acceptable surety is one that is listed in the Department of Treasury, Fiscal Service, Circular 570, entitled "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" at the date of the bond.

(2) The coverage of the license bond shall include losses that may occur as the result of the contractor's violation of the unprofessional or unlawful provisions contained in Title 58, Chapters 1, Division of Occupational and Professional Licensing Act, and Title 58, Chapter 55, Utah Construction Trades Licensing Act and ~~[r]~~ Rules R156-1 and R156-55a, including:

~~_____ (a) [the] failure to maintain financial responsibility[;]~~

~~_____ (b) [the] failure of the licensee to pay its obligations[;]~~ and

(c) ~~the~~ failure of the owners or a licensed unincorporated entity to pay income taxes or self-employment taxes on the gross distributions from the unincorporated entity to its owners.

(3) The Division may review the financial history of the applicant, licensee, qualifier, or any owner, as outlined in Section R156-55a-306, ~~may be reviewed~~ in determining the bond amount required under this section.

(4) If the licensee is submitting a bond under Subsection 58-55-306(5)(b)(iii)(B), the amount of the bond shall be 20% of the annual gross distributions from the unincorporated entity to its owners. As provided in Subsection 58-55-302(10)(c), the Division, in determining if financial responsibility has been demonstrated, may consider the total number of owners, including new owners added as reported under ~~the provisions of~~ Subsection 58-55-302(10)(a)(i), in setting the amount of the bond required under this subsection.

(5) If the licensee is submitting a bond ~~under any subsection~~ for any reason other than Subsection 58-55-306(5)(b)(iii)(B), the minimum amount of the bond shall be the greater of:

(a) if a bankruptcy petition has been filed, is pending, or discharged by any owner or qualifier, by the licensee entity, or by any prior entities of the owners or qualifiers within the last three years from the date of application or renewal or request for financial review of the licensee, 30% of the total liabilities listed on all Forms 106 filed with the bankruptcy court for the owners, qualifiers, the licensee entity, and any prior entities of the owners or qualifiers; or

(b) if the total amount of the cumulative outstanding debts, judgments, child support obligations, liens, and obligations owing by the owners, qualifiers, the licensee entity, and any prior entities of the owners and qualifiers, is \$1,000 or more, the greater of:

(i) 30% of that total amount; or

(ii)(A) \$50,000 for ~~the E100 or B100~~ any general contractor classification ~~of licensure~~ except the R100 classification;

(B) \$25,000 for the R100 classification ~~of licensure~~; or

(C) \$15,000 for other classifications.

(6) A higher or lower amount of the bond referenced in Subsection R156-55a-602(5) may be determined by the Division and the Commission as provided in this section ~~Subsection R156-55a-602(6)~~.

(7) The bond shall be maintained for the duration of licensure until the licensee receives written permission from the Division to discontinue maintaining the bond.

~~(6)~~(8) The amount of the bond specified under Subsection R156-55a-602(5) may be increased by an amount determined by the Commission and Division ~~when~~ if the financial, criminal, or disciplinary history of the applicant, licensee, qualifier, or any owner indicates the bond amount ~~specified in Subsection R156-55a-602(1)~~ is insufficient to reasonably cover risks to the public health, safety and welfare. The Division and Commission may review the financial, criminal, and disciplinary history of the applicant, qualifier, licensee or any owner, as outlined in Section R156-55a-306, ~~may be reviewed~~ in determining the bond amount required.

~~(7)~~(9) A contractor may provide a license bond issued by a surety acceptable to the Division in an amount less than the bond amount specified in Subsection R156-55a-602(5) if:

(a) the contractor demonstrates by clear and convincing evidence that:

(i) the financial history of the applicant, licensee, qualifier, or any owner indicates the bond amount specified ~~in Subsection R156-55a-602(1)~~ is in excess of what is reasonably necessary to cover risks to the public health, safety and welfare;

(ii) the contractor's lack of financial responsibility is due to extraordinary circumstances that the contractor could not control as opposed to general financial challenges that ~~all~~ contractors experience; and

(iii) the contractor's scope of practice will be restricted commensurate with the degree of risk the contract presents to the public health, safety, and welfare; and

(b) the Commission and Division approve the amount.

R156-55a-700. Emergency Contractor Licensing.

Pursuant to Subsection 58-1-307(4)(g), the Division may issue emergency contractor licenses as follows:

(1) The Division may issue an emergency contractor's license for any classification to any person or entity, including an apprentice, journeyman, or master plumber or electrician license.

(2) The Division may issue an emergency contractor's license in any form approved by the Division.

(3) An emergency contractor license shall expire on the earlier of:

(a) 30 days after the expiration of the emergency declaration;

(b) 10 days after the Division provides notice to the licensee that the license shall expire; or

(c) as specified by the Division in a notice to the licensee, at any time and for any reason.

(4) The Division may institute or waive any contractor licensing requirement under Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, and Chapter 55, Utah Construction Trades Licensing Act, and Rules R156-1 and R156-55a in determining eligibility for an emergency contractor license.

KEY: contractors, occupational licensing, licensing

Date of Enactment or Last Substantive Amendment: ~~July 22, 2019~~2020

Notice of Continuation: August 4, 2016

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-55-101; 58-55-308(1)(a); 58-55-102(39)(a)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-419	Filing No. 52988

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:

Relying on student attendance as a measurement for state funding is not reliable when student learning takes place of the classroom or out of the presence of a teacher. Due to the impacts of COVID-19 on in-classroom learning, the Utah State Board of Education (USBE) has been asked whether they will: 1) provide waivers from the 180 day/990 hour requirements for the 2020-21 school year; or 2) amend the 180 day/990 hour requirements. USBE received feedback from stakeholders requesting USBE waive the 990 instructional hour requirement for the 2020-21 school year to provide more flexibility to local education agencies (LEAs) to provide learner based educational services.

4. Summary of the new rule or change:

The rule change waives the existing requirement for an LEA to provide 990 hours of instruction of educational services a year, based on certain conditions being met. The updated rule also: changes the terminology around the 990 hour requirement by basing the 990 on hours of providing "educational services" rather than instruction; eliminates the minimum school day hour requirements; eliminates prescriptive language about what may or may not be counted as hours of instruction or educational services; and changes terminology of "continuing enrollment measurement" to "learner validated enrollment measurement".

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. It should not require USBE to significantly change operations or practices but provides LEAs with the flexibility necessary to account for student enrollments during the COVID-19 Pandemic.

B) Local governments:

This rule change is not expected to have material fiscal impacts on local governments' revenues or expenditures. It should not require LEAs to significantly change operations or practices but provides them with the flexibility necessary to account for student enrollments during the COVID-19 Pandemic.

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

This rule change is not expected to have fiscal impacts on small businesses' revenues or expenditures. It should not require LEAs to significantly change operations or practices but provides them with the flexibility necessary to account for student enrollments during the COVID-19 Pandemic.

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 fiscal impacts on revenues or expenditures for persons other than small businesses, businesses, or local government entities. It should not require LEAs to significantly change operations or practices but provides them with the flexibility necessary to account for student enrollments during the COVID-19 Pandemic.

F) Compliance costs for affected persons:

There are no independent compliance costs for affected persons. The rule change should not require LEAs to significantly change operations or practices but provides them with the flexibility necessary to account for student enrollments during the COVID-19 Pandemic.

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 State Superintendent of the Utah State Board of Education, 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-3-602(2)	Subsection 53G-5-404(4)
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Subsection 53E-3-401(4)	Subsection 53E-3-301(3)(d)	Section 53G-4-404
Subsection 53E-3-501(1)(e)		

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: 09/15/2020

10. This rule change MAY become effective on: 09/22/2020

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:	07/29/2020
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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;
 - (f) Section 53G-4-404, which requires annual financial reports from all school districts; and

NOTICES OF PROPOSED RULES

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

~~[(9)](9) "Educational services" means providing learning opportunities and services designed to support a student to be prepared to succeed and lead by having the knowledge and skills to learn, engage civically, and lead meaningful lives, including by providing:~~

~~[(a)](a) high quality instruction for each student;~~

~~[(b)](b) personalized learning supports for each student; and~~

~~[(c)](c) implementation of evidence-based student health and wellness practices.~~

(10) "Eligible student" means a student who satisfies the criteria for enrollment in an LEA, set forth in Section R277-419-~~[(6)](7)~~.

(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:

(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)](214)~~ 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)](17) "Learner validated enrollment measurement" means a methodology used to establish a student's membership or enrollment status for purposes of generating membership days.~~

~~[(17)](18) "Learner validated program" means a program within an LEA that consists of eligible, enrolled public school students where the student receives instruction through:~~

~~[(a)](a) an online learning program;~~

~~[(b)](b) a blended learning program; or~~

~~[(c)](c) a competency based learning program.~~

~~[(18)](19)(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)](20) "Minimum School Program" means the same as that term is defined in Section 53F-2-102.~~

~~[(20)](21) "Online learning program" means a program:~~

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

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

~~[(21)](22) "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)](23)~~ "Program" means a course of instruction within a school that is designed to accomplish a predetermined curricular objective or set of objectives.

~~(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.~~

~~[(23)](25)~~ "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)](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)](26)~~ "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)](27)~~ "S1" means the record maintained by the Superintendent containing individual student demographic and school membership data in a Data Clearinghouse file.

~~[(27)](28)~~ "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)](29)~~ "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)](30)~~ "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)](31)~~ "School day" means a day where an LEA provides educational services to students [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 R277-419-5.~~

~~[(31)](32)~~ "School membership" means membership other than in a special education or YIC program in the context of the Data Clearinghouse.

~~[(32)](33)~~ "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.

~~(34)~~ "School reopening requirements template" means the template LEAs are required to submit to Superintendent as an assurance that the LEA has addressed state requirements for reopening schools for in person learning for the 2020-21 school year.

~~[(33)](35)~~ "School year" means the 12 month period from July 1 through June 30.

~~[(34)](36)~~ "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)](37)~~ "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)](38)~~ "SSID" means Statewide Student Identifier.

~~[(37)](39)~~ "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]7(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)](40)~~ "Year end upload" means the Data Clearinghouse file due annually by July 15 from LEAs to the Superintendent for the prior school year.

~~[(39)](41)~~ "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 and School Reopening Requirements Template.

(1) This rule incorporates by reference;

~~(a)~~ the Continuity of Education Plan form created by the Superintendent, which requires planning for services in the event of a school closure, including:

~~(a)~~(i) e-learning;

~~(b)~~(ii) special education services;

~~(c)~~(iii) student meals;

~~(d)~~(iv) event planning; and

~~(e)~~(v) staffing.

~~(b)~~ the School Reopening Requirements Template created by the Superintendent and based on the K-12 School Reopening Requirements and Recommendations approved by the Board, which an LEA is required to submit to the Superintendent as an assurance that the LEA has addressed state requirements for safely reopening schools for the 2020-21 school year.

NOTICES OF PROPOSED RULES

(2) A copy of Continuity of Education Plan the form is located at:

(a) <http://schools.utah.gov/administrativerules/documentsincorporated;> and

(b) the Utah State Board of Education.

(3) A copy of the School Reopening Requirements template is located at:

(a) <https://www.schools.utah.gov>; and

(b) the Utah State Board of Education.

R277-419-4. 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.

R277-419-5. Minimum School Days.

(1)(a) Except as provided in Subsection (1)(b), Section R277-419-6, [-]and Subsection 53F-2-102(4), an LEA shall conduct school for at least 990 [~~instructional~~]hours of educational services 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 R277-419-14; or

(iii) for an individual student as described in Section R277-419-13.

(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 of educational services or four school days for professional learning described in Subsection 53F-2-102(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 R277-419-5[~~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~~]educational service 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~~]educational service 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 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.

R277-419-6. Waiver of the 990 Hour Requirement For the 2020-21 School Year.

Notwithstanding the requirements of Section R277-419-5, for the 2020-21 school year, an LEA is not subject to the requirement to conduct school for at least 990 hours of educational services if, by August 1, 2020, the LEA includes in the LEA's reopening requirements template, how the LEA will ensure continuity of teaching and learning by providing high quality instruction that includes blended learning and formative assessment strategies.

R277-419-~~6~~7. Student Membership Eligibility and [Continuing]Learner Validated 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]learner validated 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]learner validated 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]learner validated enrollment measurement to document the [continuing]learner validated 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]learner validated 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]learner validated enrollment measurement, consistent with Subsection (3)(c).

(c) For a student enrolled in a learner validated program, the LEA may not count a student as an eligible student if the LEA has not personally engaged with the student during the prior ten consecutive school days.

(5) The [continuing]learner validated 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)](6)(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-[7]8. 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 R277-419-5(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)(a) An LEA shall calculate the days in membership for all students using a method equivalent to the following: total clock hours of ~~instruction~~ educational services 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.

(b) 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) The sum of regular plus self-contained special education and self-contained YIC membership days may not exceed 180 days.

(7) The sum of regular and resource special education membership days may not exceed 360 days.

(8) The sum of regular, ISI-1 and ISI-2 YIC membership days may not exceed 360 days.

(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]9. Student Membership Calculation During the 2020 Covid-19 Pandemic.

Notwithstanding the requirements of Sections R277-419-[6]7 and R277-419-[7]8, 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-[9]10. 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-[10]11. Reporting Requirements, LEA Records, and 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 or student engagement 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.

(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]~~educational ~~service~~ activities throughout required calendared ~~[instruction-]~~days.

(7) An LEA shall employ an independent auditor, under contract, to:

(a) perform an annual agreed-upon procedures engagement; and

(b) report any findings of the 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 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 reports as they relate to the allocation of state funds; and

(b) may periodically or for cause review LEA records and practices for compliance with the laws and this rule.

R277-419-~~[4]~~12. 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-~~[6]~~7(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 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~~[2]~~3. 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.

NOTICES OF PROPOSED RULES

(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[3]4. 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 time the LEA will provide educational services over a minimum of 172 days.

R277-419-15. Effective Date.

This rule is effective for the 2020-21 school year.

KEY: education finance, school enrollment, pupil accounting
Date of Enactment or Last Substantive Amendment: [July 9, 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: Amendment

Utah Admin. Code Ref (R no.):	R277-606	Filing No. 52973
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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:
R277-606. Dropout Prevention and Recovery Program
3. Purpose of the new rule or reason for the change:
This rule is being amended because of 2020 General Session H.B. 376, Dropout Prevention Amendments.
4. Summary of the new rule or change:
This rule has edits to reflect the updates made by H.B. 376 (2020) to expand the types of local education agencies (LEAs) that are exempt from the dropout prevention program. The rule edits also insert a reference to the relevant state code that lists the LEA exemptions from being required to participate in the program.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have independent fiscal impacts on state government revenues or expenditures. The amendments are a result of H.B. 376 (2020).
B) Local governments:
This rule change is not expected to have independent fiscal impacts on local governments' revenues or expenditures. The amendments are a result of H.B. 376 (2020).
C) Small businesses ("small business" means a business employing 1-49 persons):

This rule change is not expected to have independent fiscal impacts on small businesses' revenues or expenditures. The amendments are a result of H.B. 376 (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 independent fiscal impacts on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The amendments are a result of H.B. 376 (2020).

F) Compliance costs for affected persons:

There are no independent compliance costs for affected persons. The amendments are a result of H.B. 376 (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 State Superintendent of the Utah State Board of Education, 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 53G-9-802
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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:	09/15/2020
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10. This rule change MAY become effective on:	09/22/2020
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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:	07/15/2020
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R277. Education, Administration.

R277-606. Dropout Prevention and Recovery Program.

R277-606-1. 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; ~~and~~

~~(b) Section 53A-15-1903, which requires the Board to develop rules to set policies related to a dropout prevention and recovery program;~~

~~(c) Section 53A-1-401, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;~~

(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-9-802, which requires the Board to develop rules to set policies related to a dropout prevention and recovery program.

(2) The purpose of this rule is to:

(a) develop policies related to an LEA's dropout prevention and recovery program; and

(b) set reporting requirements for LEAs with a dropout prevention and recovery program.

R277-606-2. Definitions.

For purposes of this rule:

(1) "Attainment goal" has the same meaning as that term is defined in Section ~~[53A-15-1902]~~53G-9-801.

(2) "Average daily membership" means the same as that term is defined in Section ~~[53A-17a-103]~~53F-2-102.

(3) "Cohort" means the same as that term is defined in Section ~~[53A-15-1902]~~53G-9-801.

(4) "College and career readiness work" means the same as that term is defined in Section ~~[53A-15-1902]~~53G-9-801.

(5) "Designated student" means a student:

(a)(i) who has withdrawn from a secondary school prior to earning a diploma;

(ii) who was dropped from average daily membership; and

(iii) whose cohort has not yet graduated; or

(b) who is at risk of meeting the criteria described in Subsection (5)(a), as determined by the student's LEA, using the risk factors described in Subsection (10).

(6) "Graduation rate" means the same as that term is defined in Section ~~[53A-15-1902]~~53G-9-801.

(7) "LEA" means the same as that term is defined in Section ~~[53A-15-1902]~~53G-9-801.

(8) "Nontraditional program" means the same as that term is defined in Section 53A-15-1902.

(9) "Proxy graduation rate" means a rate calculated:

(a) in a manner similar to the regular graduation rate for each year of grades 9 through 12;

(b) treating a student as having graduated if the student returned after each grade year; and

(c) treating a student as dropping out if the student:

(i) did not return after each year; or

(ii) the student did not have an acceptable exit code entered into the Board's UTREx system.

(10) "Risk factors" means:

(a) low academic performance, as measured by grades, test scores, or course failure;

(b) poor behavior, as measured by office disciplinary referrals, suspensions, or expulsions; and

(c) absenteeism, whether excused or unexcused absences, and including days tardy and truant.

(11) "Third party" means the same as that term is defined in Section ~~[53A-15-1902]~~53G-9-801.

R277-606-3. LEA Dropout Prevention and Recovery Programs.

(1) ~~[Beginning with the 2016-17 school year, a]~~An LEA that serves students in grades 9, 10, 11, or 12 shall provide a dropout prevention and recovery program for a designated student with the dropout prevention and recovery services described in Section ~~[53A-15-1903]~~53G-9-802.

(2) An LEA that enrolls a designated student in a dropout prevention and recovery program shall:

(a) develop a written policy that describes:

(i) how the LEA or the LEA's third party will measure and report if the designated student made a year's worth of progress toward an attainment goal as required in Section R277-606-4; and

(ii) how membership days will be determined for the designated student in accordance with the LEA's established school schedule and enrollment policies; and

(b) indicate that the designated student is enrolling in the LEA's dropout prevention and recovery program in accordance with current UTREx specifications.

(3)(a) If a designated student chooses to enroll in a dropout prevention and recovery program, the LEA, in consultation with the designated student, shall prepare, in accordance with the LEA's written policy described in Subsection (2), a learning plan for the designated student that includes an attainment goal for the designated student.

(b) If an LEA is required to contract with a third party to provide dropout prevention and recovery services, the third party shall:

(i) work with the LEA to prepare a learning plan for a designated student described in Subsection (3)(a);

(ii) regularly report a designated student's progress toward the designated student's attainment goal in accordance with the LEA's written policy described in Subsection (2); and

(iii) maintain documentation required by the LEA for the LEA to meet the requirements of Subsection R277-606-4(4).

(4)(a) If a designated student is a student with a disability and an LEA provides dropout prevention and recovery services without using a third party, the LEA shall:

(i) prepare an IEP or Section 504 plan for the designated student; and

(ii) provide the dropout prevention and recovery services in accordance with the designated student's IEP or Section 504 plan.

(b) If a designated student is a student with a disability and an LEA contracts with a third party to provide dropout prevention and recovery services to the designated student:

(i) the LEA shall prepare an IEP or Section 504 plan for the designated student; and

(ii) the third party shall provide the dropout prevention and recovery services to the designated student in accordance with the designated student's IEP or Section 504 plan.

R277-606-4. Reporting Requirements and Audits.

(1)(a) ~~[Beginning with the 2016-17 school year, on or before August 1, 2017 and on or before August 1 each year thereafter, a]~~ An LEA shall submit an annual report to the Superintendent on the LEA's dropout prevention and recovery services by October 30.

(b) The report described in Subsection (1)(a) shall include:

(i) the information described in Section ~~[53A-15-1903]~~53G-9-802;

(ii) the total number of designated students in the LEA; and

(iii) if applicable, the name of a third party the LEA is contracting with to provide dropout prevention and recovery services.

(2) A third party working with an LEA on the LEA's dropout prevention and recovery program shall report any information requested by the LEA including any information required for the LEA to submit a report described in Subsection (1).

(3) The Superintendent shall:

(a) review LEA reports described in Subsection (1);

(b) by April 1 each year, inform an LEA that the LEA is required to enter into a contract with a third party as described in Subsection ~~[53A-15-1903(3)]~~53G-9-802(3); and

(c) except as provided in Subsection 53G-9-802(4), ensure that an LEA described in Subsection ~~[53A-15-1903(3)]~~53G-9-802(3) and Subsection R277-606-3(3) contracts with a third party as required in Section ~~[53A-15-1903]~~53G-9-802 and Section R277-606-3.

(4)(a) An LEA shall maintain documentation to comply with the requirements of Section ~~[53A-15-1903]~~53G-9-802 and this rule.

(b) The Board or the Superintendent may request an audit of an LEA's dropout prevention and recovery program.

KEY: dropout, prevention and recovery, pupil accounting

Date of Enactment or Last Substantive Amendment: ~~[October 11, 2016]~~2020

Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; ~~[53A-1-401]~~53E-4-401(4); [53A-15-1903]53G-9-802

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R277-752	Filing No. 52989
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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 84114	
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:
R277-752. Special Education Intensive Services Fund
3. Purpose of the new rule or reason for the change:
This rule is amended to address carry forward and application requirements for the special education intensive services fund appropriation.
4. Summary of the new rule or change:
This rule updates provisions for local education agencies (LEAs) with excessive carry forward balances and their eligibility to receive an allocation of funds in the Special Education Intensive Services Fund. This rule also requires the Board to recoup special education carry forward funds in excess of 20% of an LEA's budget for all the LEA's special education programs.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change may impact state government revenues and/or expenditures. It requires the Board to recoup special education intensive service carry forward funds in excess of 20% of an LEA's special education budget. These revenues are not retained by the state but go into the special education intensive services program, allowing the board to fund additional requests from other LEAs. This rule change redistributes funding provided to LEAs and does not increase revenues retained by the Utah State Board of Education (USBE).

B) Local governments:			
This rule change may impact local governments' revenues and/or expenditures. It requires the USBE to recoup special education intensive service carry forward funds in excess of 20% of an LEA's special education budget. These revenues are not retained by the state but go into the special education intensive services program, allowing the USBE to fund additional requests from other LEAs. The net benefit/cost to LEAs is zero as the rule only redistributes funding amongst LEAs.			
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 businesses' revenues or expenditures. The amendments in this rule change directly impact only state and local governments.			
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 amendments in this rule change directly impact only state and local governments.			
F) Compliance costs for affected persons:			
There are no compliance costs 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 State Superintendent of the Utah State Board of Education, 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 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 53F-2-309
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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:	09/15/2020
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10. This rule change MAY become effective on:	09/22/2020
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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:	07/29/2020
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R277. Education, Administration.

R277-752. Special Education Intensive Services Fund.

R277-752-1. 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-2-309, which requires the Board to make rules establishing a distribution formula to allocate money appropriated to the board for the special education intensive services fund.
- (2) The purpose of this rule is to establish:
 - (a) an application process for the special education intensive services fund; and
 - (b) a formula to distribute the funds.

R277-752-2. Definitions.

- (1) "Budget" means the total expenditures reported on an LEA's Annual Program Report, "APR."

(2) "Cost of setting" means the cost of a student's educational environment, including:

- (a) for a preschool student, the cost of services provided in an early childhood setting;
- (b) for a general education student, the cost of services provided in a general education classroom by special education personnel;
- (c) for resource students, the cost of services provided in a special education classroom by pull-out from the general education classroom;
- (d) for a student in a special class, the cost of services provided in a special education classroom for all or most of the day; and
- (e) for a student in a special school, the cost of services provided in a separate school where all students have disabilities.

(3) "Highest impacted LEA cost ratio" means the quotient of, for a fiscal year:

- (a) an LEA's unreimbursed expenses remaining after allocations are made from the high cost student fund described in R277-752-3; and
- (b) an LEA's total state special education revenues from the prior fiscal year.

(4) "Local education agency" or "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(5) "Special education intensive services fund" means funding available to offset the costs of students whose educational program exceeds three times the state average per pupil expenditures.

R277-752-3. Application Process - Distribution Formula.

(1) To receive an annual allocation from the special education intensive services fund, an LEA shall annually submit to the Superintendent an application claiming:

- (a) prior year expenses that:
 - (i) are associated with providing direct special education and related services identified in a student's IEP; and
 - (ii) exceed three times the state average per pupil expenditures using data from the most recently published State Superintendent's Annual Report; and
- (b) any reimbursements received for the expenses described in Subsection (1)(a)(i) from private insurance or Medicaid.

~~_____ (2) If an LEA's carry forward funds exceed 20% of the LEA's special education budget, the LEA may not submit an application for an annual allocation or reimbursement under the intensive services fund.~~

(2)(a) Except as provided in Subsection (2)(b), if the prior year carry forward balances of an LEA's state special education programs exceed 20% of the LEA's special education budget, the LEA may not submit an application for an annual allocation or reimbursement under the intensive services fund.

(b) An LEA that submits an application for an annual allocation or reimbursement under the intensive services fund shall:

- (i) demonstrate the LEA's state special education carry forward balances do not exceed 20% of the LEA's special education current year budget; and
- (ii) submit a letter signed by the LEA's superintendent or charter school director certifying the LEA's state special education fund balances as of March 1 of the year of application.

(3) From the special education intensive services fund, the Superintendent shall allocate:

- (a) 50% of the appropriation to the high cost student fund to be distributed to LEAs based on the highest cost students with disabilities;

NOTICES OF PROPOSED RULES

(i) as described in Section 53F-2-309; and
 (ii) in accordance with Subsection (4); and
 (b) 50% of the appropriation to the highly impacted LEA fund to be distributed to LEAs based on the highest impact to an LEA due to high cost students with disabilities:

- (i) as described in Section 53F-2-309; and
- (ii) in accordance with Subsection (5).

(4)(a) The Superintendent shall distribute funds to LEAs from the high cost student fund using a step down reimbursement process as described in this Subsection (4).

(b) The first step is to reimburse for the highest cost student equal to the difference between the highest cost student and the second highest cost student.

(c) The second step is to reimburse for the highest cost student and second highest cost student equal to the difference between the second highest cost student and the third highest cost student.

(d) Except as provided in Subsection (4)(e), the Superintendent shall continue the step down reimbursement process described in this subsection until funds are exhausted.

(e) If funding is insufficient to fully reimburse the cost for all students in a step, the Superintendent shall reallocate the remaining funds to the highly impacted LEA fund.

(f) In determining student cost under this Subsection (4), the Superintendent shall sum expenses described in Subsection (1)(a)(i) less:

(i) the state average per pupil expenditures using data from the most recently published State Superintendent's Annual Report; and

- (ii) reimbursements from private insurance or Medicaid.

(5)(a) The Superintendent shall distribute funds to LEAs from the highly impacted LEA fund by providing a reimbursement equal to the difference between:

- (i) an LEA's unreimbursed expenses remaining after allocations are made from the high cost student fund; and
- (ii) the product of:

(A) an LEA's total federal and state special education funding from the prior fiscal year; and

- (B) the median of the highest impacted LEA cost ratios.

(b) The Superintendent shall provide a reimbursement described in Subsection (5)(a) starting with the LEA with the highest impacted LEA cost ratio until funds are exhausted.

(6)(a) The Superintendent shall maintain and publish a list of costs eligible for reimbursement under this rule along with the rate of reimbursement.

(b) The Superintendent shall exclude cost of setting from reimbursement calculations.

(7) If an LEA's carry forward exceeds the LEA's special education budget by an amount greater than 20% of the special education budget, the Superintendent shall recoup funds in excess of the 20% carry forward and ~~add~~make the funds available for distribution in ~~to~~the next year's intensive services fund ~~budget~~program.

(b) Notwithstanding the requirements of Subsection (7)(b), an LEA has three years to spend carry forward fund balances incurred prior to June 30, 2019.

KEY: special education, intensive services fund
Date of Enactment or Last Substantive Amendment: [February 7, 2017]2020
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-2-309

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R386-800	Filing No. 52995

Agency Information

1. Department:	Health	
Agency:	Disease Control and Prevention, Epidemiology	
Building:	Cannon Building	
Street address:	288 N 1460 W	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 142102	
City, state, zip:	Salt Lake City, UT 84114-2102	
Contact person(s):		
Name:	Phone:	Email:
Rich Lakin	801-538-9450	rlakin@utah.gov
Jon Reid	801-538-9450	jreid@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R386-800. Immunization Coordination
3. Purpose of the new rule or reason for the change:
The reason for these changes are to update this rule to conform to rulewriting guidelines, to amend this rule to update Utah Code reference, to remove conflicting privacy requirements, and to ensure this rule supports individual access to their own immunization records.
4. Summary of the new rule or change:
The changes remove reference to Title 26, Chapter 6, and add reference to Title 26, Chapter 1. Also, added authorization for personal health records, updated access and confidentiality section, updated formatting, and fixed minor grammar errors.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
The amendments to this existing administrative rule are not expected to have any fiscal impact on the state budget because the changes do not affect the implementation of this rule; they simply align privacy requirements and clarify access by individuals.

B) Local governments:			
The amendments to this existing administrative rule are not expected to have any fiscal impact on the local governments because the changes do not affect the implementation of this rule; they simply align privacy requirements and clarify access by individuals.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
The amendments to this existing administrative rule are not expected to have any fiscal impact on small businesses because the changes do not affect the implementation of this rule; they simply align privacy requirements and clarify access by individuals.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
The amendments to this existing administrative rule are not expected to have any fiscal impact on non-small business because the changes do not affect the implementation of this rule; they simply align privacy requirements and clarify access by individuals.			
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 amendments to this existing administrative rule are not expected to have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities, because the changes do not affect the implementation of this rule; they simply align privacy requirements and clarify access by individuals.			
F) Compliance costs for affected persons:			
The amendments to this existing administrative rule are not expected to have any compliance costs for affected persons because the changes do not affect the implementation of this rule; they simply align privacy requirements and clarify access by 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 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:

After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to 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):

Subsection 26-1-30(6)	Section 26-3-7	
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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:	9/14/2020
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10. This rule change MAY become effective on:	9/21/2020
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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:	Joseph K. Miner, Executive Director	Date:	07/31/2020
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R386. Health, Disease Control and Prevention, Epidemiology.

R386-800. Immunization Coordination.

R386-800-1. Authority and Purpose.

(1) This rule is authorized by ~~[Title 26, Chapter 6, Communicable Disease Control, Sections 26-1-30 and 26-3-5]~~~~[Title 26, Chapter 3, Health Statistics].~~

(2)(a) It establishes a system to ~~collect, coordinate and share immunization information~~~~[coordinate immunizations among health care providers to assure adequate immunization and to avoid unnecessary immunizations. It provides for the sharing of immunization information]~~ among ~~authorized~~;

- ~~(b) health care providers~~;
- ~~(c) health insurers~~;
- ~~(d) schools~~;
- ~~(e) [day]child care programs~~~~[centers];~~
- ~~(f) personal health record systems; and~~
- ~~(g) publicly funded programs~~~~[to meet statutory immunization requirements and to control disease outbreaks].~~

(3) It establishes a requirement to ~~allow~~~~[allowing]~~ individuals to withdraw from the system.

(4) It establishes confidentiality requirements and lists penalties for violations.

R386-800-2. Definitions.

As used in this rule:

(1) "Health care provider" means the same as defined in ~~Section 78B-3-403.~~

(2) "Guardian" means the same as described in ~~Section 75-5-201.~~

(3) "Child care" means the same programs as defined in ~~Section 26-39-102.~~

(4) "School" means the same as defined in ~~Section 26-6-2.~~

(5) "Personal Health Record" means an electronic application ~~through which an individual or guardian can access, maintain and manage their health information.~~

(6) "Health insurer" means an insurer offering a health benefit plan, as defined by ~~Section 31A-1-301.~~

~~(7) "System" means the Utah Statewide Immunization Information System.~~

R386-800-~~2~~3. Participation by Individuals.

(1) Individual participation in the immunization coordination system is voluntary.

(2) Immunization records ~~[of individuals in Utah]~~ may be included in the system unless the individual ~~[or parent]~~ or guardian withdraws ~~from the system.~~

(3) An individual or ~~[his or her parent or]~~ guardian may withdraw from the system at any time.

~~[(2) An individual who has given prior affirmative consent to participate in the system will be included until such time as he or she withdraws from the system.]~~

R386-800-~~3~~4. Participation by Organizations.

(1) ~~The following organizations may apply to participate in the system:~~

- ~~(a) [H]health care providers~~;
- ~~(c) health insurers~~;
- ~~(d) schools~~;
- ~~(e) [day]child care programs~~~~[centers];~~
- ~~(f) personal health record systems; and~~
- ~~(g) publicly funded programs~~~~[can apply to participate in the system].~~

(2) An authorized organizational participant must sign a participation agreement and abide by its requirements.

(a) Participation agreements are available at <https://immunize.utah.gov/usiiis/>.

~~(2)3~~ No person or individual is required to access the system to coordinate immunizations.

R386-800-~~4~~5. Notification.

(1) Organizations that participate in the program shall inform individuals or ~~parents or~~ guardians about the system and provide information about the right to withdraw from ~~of~~ the system ~~as required in the participation agreement~~.

(2) When birth certificates are issued ~~[T]~~ this notice ~~must~~ shall be provided directly to parents or guardians ~~when issuing birth certificates~~.

R386-800-~~5~~6. Withdrawal.

(1) The Department of Health shall provide withdrawal forms and contact information to ~~individuals, parents or guardians, and organizational~~ participants.

(a) Withdrawal forms are available at <https://immunize.utah.gov/usiiis/>.

(2) Organizational participants shall make the forms and contact information available to individuals ~~or their parents~~ or guardians as required by the participation agreement, but are not responsible to assure that the individual is withdrawn from the system.

R386-800-~~6~~7. Access and Confidentiality.

(1) Organizational participants may access identifiable patient information in the system only as required;

- ~~(a) to assure adequate immunization of a patient~~;
- ~~(b) to avoid unnecessary immunizations~~;
- ~~(c) to confirm compliance with mandatory immunization requirements~~;
- ~~and~~ or
- ~~(d) to control disease outbreaks.~~

(2) [All ~~e~~] Other access is restricted by Section 26-3-7 [Title 26, Chapter 6, Communicable Disease Control, and Title 26, Chapter 3, Health Statistics].

R386-800-[7]8. Liability.

(1) Organizational participants report immunization records to the system under the authority of Section 26-1-30 [the ~~Communicable Disease Control Act~~].

(2) An organizational participant who reports information in good faith pursuant to this rule is in conformance with applicable confidentiality provisions and would not be liable for improper reporting of the immunization information to the Department of Health for use in the system.

R386-800-[8]9. Penalties for Violation.

[~~As required by Section 63-46a-3(5):~~]

(1) Any person who violates any provision of this rule may be assessed a civil money penalty as provided in Section 26-23-6.

KEY: immunization data reporting, consent

Date of Enactment or Last Substantive Amendment: [~~March 15, 2010~~] **2020**

Notice of Continuation: January 13, 2020

Authorizing, and Implemented or Interpreted Law: 26-1; 26-3; ~~26-6~~

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R414-42	Filing No.	52990

Agency Information

1. Department:	Health		
Agency:	Health Care Financing, Coverage and Reimbursement Policy		
Building:	Cannon Health Building		
Street address:	288 N 1460 W		
Mailing address:	PO Box 143102		
City, state, zip:	Salt Lake City, UT 84114-3102		
Contact person(s):			
Name:	Phone:	Email:	
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule or section catchline:
R414-42. Telemedicine
3. Purpose of the new rule or reason for the change:
The purpose of this change is to allow members easier access to Medicaid services during the Coronavirus

(COVID-19) Pandemic.
4. Summary of the new rule or change:
This amendment provides members easier access to services through teledentistry and synchronous telehealth. It further specifies that coverage for telehealth is the same as coverage for any given service, changes the title to "telehealth", includes new definitions, and makes other technical changes. (EDITOR'S NOTE: A corresponding emergency filing on Rule R414-42, that was effective on 07/13/2020, was published under Filing No. 52935 in the August 1, 2020, issue of the Bulletin.)

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
There is an estimated total cost of \$78,900 through statewide utilization.
B) Local governments:
There is no impact on local governments because they neither fund nor provide telehealth under the Medicaid program.
C) Small businesses ("small business" means a business employing 1-49 persons):
About 20 small businesses may see a share of revenue of approximately \$15,810 through statewide utilization.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
About 70 non-small businesses may see a share of revenue of approximately \$55,200 through statewide utilization.
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):
About 10 other telehealth providers may see a share of revenue of approximately \$7,890 through statewide utilization. Medicaid members who access these services may see out-of-pocket savings, but there is no current data to estimate how many members will access these services and what that savings will be.
F) Compliance costs for affected persons:
There are no compliance costs to a single telehealth provider or to a Medicaid member as services remain the same even with the change in venue.
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	\$78,900	\$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	\$78,900	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$15,810	\$0	\$0
Non-Small Businesses	\$55,200	\$0	\$0
Other Persons	\$7,890	\$0	\$0
Total Fiscal Benefits	\$78,900	\$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 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:

Businesses may see a share of revenue through their use of the new telehealth services.

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	Section 26-18-3	Section 26-18-13
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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: 09/15/2020

10. This rule change MAY become effective on: 09/22/2020

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:	07/30/2020
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R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-42. Tele[medicine]health.

R414-42-1. Introduction and Authority.

This rule outlines [eligibility,]access requirements, coverage, limitations, and reimbursement for telehealth services[telemedicine]. This rule is authorized by Section 26-18-13.

R414-42-2. Definitions.

(1) "Tele[medicine]health services" means the transmission of health-related services or information through the use of electronic communication or information technology[is two-way, real-time interactive communication between the member and the physician or authorized provider at the distant site. This electronic communication uses interactive telecommunications equipment that includes, at a minimum, audio and video equipment].

(2) "Authorized provider" means a provider in compliance with requirements as specified in Section I: General Information of the Utah Medicaid Provider Manual, Chapter 3, Provider Participation and Requirements.

(3) "Distant site" is the location of the provider when delivering the service via the telecommunications system.]

(2) "Teledentistry" means the use of information technology and telecommunications for dental care, consultation, and education.

~~_____ (4) "Originating site" is the location of the Medicaid member at the time the service is furnished via a telecommunications system.]~~

~~(5) "Telepsychiatric consultation" means a consultation between a [physician] licensed provider and a board-certified psychiatrist that utilizes:~~

~~(a) the health records of the [patient] member, provided from the [patient] member or the referring [physician] provider; and~~

~~(b) a written, evidence-based [patient] member questionnaire.~~

~~(4) "Authorized provider" means a provider that signs a provider agreement with the Utah Medicaid Program, in which the provider agrees to abide by all state and federal laws related to the Medicaid program.~~

~~(5) "Distant site" means the physical location of a licensed provider that delivers health care services via a telecommunication system.~~

~~(6) "Originating site" means the physical location of a member at the time the service is being furnished via a telecommunication system.~~

~~(7) "Synchronous interaction" means real-time communication through interactive technology that enables a provider at a distant site and a member at an originating site to interact simultaneously through two-way audio or video transmission.~~

R414-42-3. Covered Services.

~~[Covered services may be delivered by means of telemedicine]~~ A licensed provider may deliver services via synchronous telehealth, as clinically appropriate. Services include consultation services, evaluation and management services, teledentistry services, mental health services, substance use disorder services, and telepsychiatric consultations.

R414-42-4. Limitations.

(1) Tele~~[medicine]~~health services ~~[encounters]~~ must comply with privacy and security measures set forth under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health (HITECH) Act, Pub. L. No. 111-5, 123 Stat. 226, 467, ~~[as amended,]~~ to ensure that all patient communications and records, including recordings of tele~~[medicine]~~health encounters, are secure and remain confidential. The provider is responsible to ensure the encounter is HIPAA compliant. Security measures for transmission may include password protection, encryption, and other reliable authentication techniques.

(2) A provider must comply ~~[Compliance]~~ with the Utah Health Information Network (UHIN) standards for telehealth ~~[must be maintained]~~. These standards provide a uniform standard of billing for claims and encounters delivered via telehealth.

(3) The originating site receives no reimbursement for the use of tele~~[medicine]~~health services.

(4) Medicaid does not cover services via telehealth which are not otherwise covered.

R414-42-5. Reimbursement of Services.

The Department pays the lesser of the amount billed or the rate on the fee schedule. A provider ~~[shall]~~ may not charge the Department a fee that exceeds the provider's usual and customary charges for the provider's private pay patients.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: ~~[July 1, 2018]~~ **2020**

Notice of Continuation: July 2, 2018

Authorizing, and Implemented or Interpreted Law: 26-18-13

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R414-312-2	Filing No. 52981

Agency Information

1. Department:	Health	
Agency:	Health Care Financing, Coverage and Reimbursement Policy	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
Mailing address:	PO Box 143102	
City, state, zip:	Salt Lake City, UT 84114-3102	
Contact person(s):		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov

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

General Information

2. Rule or section catchline:
R414-312-2. Definitions
3. Purpose of the new rule or reason for the change:
The purpose of this change is to match another administrative rule that specifies the maximum out-of-pocket deductible for Medicaid members under Utah's Premium Partnership for Health Insurance (UPP).
4. Summary of the new rule or change:
This amendment updates a provision in this rule that matches the increase to the maximum out-of-pocket deductible for a qualified health plan under UPP, as specified in Subsection R414-320-2(11)(c).

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
There is no impact to the state budget as this amendment simply updates ongoing eligibility policy.
B) Local governments:
There is no impact on local governments because they neither fund nor provide services under UPP or the Adult Expansion Medicaid Program.
C) Small businesses ("small business" means a business employing 1-49 persons):

NOTICES OF PROPOSED RULES

There is no impact on small businesses as this amendment simply updates ongoing eligibility policy.

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

There is no impact on non-small businesses as this amendment simply updates ongoing eligibility policy.

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 impact on Medicaid providers and Medicaid members as this amendment simply updates ongoing eligibility policy.

F) Compliance costs for affected persons:

There are no compliance costs to a single Medicaid provider or to a Medicaid member as this amendment simply updates ongoing eligibility policy.

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	\$0	\$0	\$0
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
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Net Fiscal Benefits	\$0	\$0	\$0
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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:

This update to eligibility policy will have 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	Section 26-18-3	
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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:	09/15/2020
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10. This rule change MAY become effective on:	09/22/2020
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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:	Joseph K. Miner, MD, Executive Director	Date:	07/22/2020
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R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-312. Adult Expansion Medicaid.

R414-312-2. Definitions.

The definitions in Rules R414-1 and R414-301 apply to this rule.

(1) In addition, the following definitions apply:

(a) "Certification Period" means the 12-month time frame in which an individual is eligible for coverage based on an approved application or review.

(b) "Community Engagement" means incentivized participation in community engagement activities to improve Medicaid enrollee health and well-being.

(c) "Employer-sponsored health plan" means a health insurance plan offered by an employer either directly or through the Utah Health Exchange.

(d) "Medically Frail" means an individual as described in 42 CFR 440.315(f).

(e) "Qualified Health Plan" means a health plan that meets all of the following:

(i) [X]the plan covers physician visits, hospital inpatient services, pharmacy, well-[-]child exams, and child immunizations;

(ii) [X]the network deductible is [less than] \$4,000 or less per person;

(iii) [X]the plan pays at least 70% of an in-[-]network inpatient stay after the deductible;

(iv) [X]the plan does not cover abortion services, or the plan only covers abortion services when the life of the mother would be endangered if the fetus were carried to term, or in the case of incest or rape; and

(v) [X]the employer pays at least 50% of the premium for the primary-insured individual.

KEY: Medicaid, adult expansion, eligibility

Date of Enactment or Last Substantive Amendment: ~~March 27,~~ 2020

Authorizing, and Implemented or Interpreted Law: 26-18

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R414-504	Filing No. 52991

Agency Information

1. Department:	Health	
Agency:	Health Care Financing, Coverage and Reimbursement Policy	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
Mailing address:	PO Box 143102	
City, state, zip:	Salt Lake City, UT 84114-3102	
Contact person(s):		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov

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

General Information

2. Rule or section catchline:
R414-504. Nursing Facility Payments
3. Purpose of the new rule or reason for the change:
The purpose of this change is to remove the requirement of the optional state assessment (OSA) and to clarify that facilities need to include all sections of the minimum data set (MDS), so that a patient-driven payment model (PDPM) score may be calculated.
4. Summary of the new rule or change:
This amendment removes the requirement that facilities submit an OSA, clarifies the requirement that facilities must submit all necessary information to calculate a PDPM score, and makes other technical corrections.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
There is no impact to the state budget because this change only clarifies the need for MDS data to calculate a PDPM score.
B) Local governments:
There is no impact on local governments because this change only clarifies MDS data needs.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no impact on small businesses because this change only clarifies MDS data needs.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There is no impact on non-small businesses because this change only clarifies MDS data needs.
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 impact on Medicaid providers and Medicaid members because this change only clarifies MDS data needs.
F) Compliance costs for affected persons:

There are no compliance costs to a single Medicaid provider or to a Medicaid member because this change only clarifies MDS data needs.

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 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:

After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to 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	Section 26-18-3	Title 26, Chapter 35a
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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: 09/14/2020

10. This rule change MAY become effective on: 09/21/2020

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:	07/30/2020
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R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-504. Nursing Facility Payments.

R414-504-2. Definitions.

The definitions in Sections R414-1-2 and R414-501-2 apply to this rule. In addition:

(1) "Behaviorally complex resident" means a long-term care resident with a severe, medically based behavior disorder, including traumatic brain injury, dementia, Alzheimer's, Huntington's Chorea, which causes diminished capacity for judgment, retention of information or decision-making skills, or a resident, who meets the Medicaid criteria for nursing facility level of care and who has a medically[-]based mental health disorder or diagnosis and has a high level resource use in the nursing facility not currently recognized in the case mix.

(2) "Case [~~M~~]mix [~~I~~]index" means a score assigned to each facility based on the average of the Medicaid patients' RUGS scores for that facility.

(3) "Facility [~~C~~]case [~~M~~]mix [~~R~~]rate" means the rate the Department issues to a facility for a specified period of time. This rate utilizes the case mix index for a provider, labor wage index application, and other case mix[-]-related costs.

(4) "FCP" means the [~~F~~]facility [~~C~~]cost [~~P~~]profile report filed by the provider on an annual basis.

(5) "Minimum Data Set" (MDS) means a set of screening, clinical and functional status elements, including common definitions and coding categories, that form the foundation of the comprehensive assessment for [~~all~~]residents of long[-]-term care facilities certified to participate in Medicaid.

(6) "Nursing Costs" means the [~~most~~]current costs from the annual FCP report reported on lines 070-012 Nursing Admin Salaries and Wages[;], 070-013 Nursing Admin Tax and Benefits[;], 070-040 Nursing Direct Care Salaries and Wages[;], 070-041 Nursing Direct Care Tax and Benefits, and 070-050 Purchased Nursing Services.

(7) "Nursing facility" or "facility" means a Medicaid-participating [~~NF~~]nursing facility, skilled nursing facility[SNF], or a combination thereof, as defined in 42 USC 1396r (a)[-](1988), 42 CFR 440.150, [~~and~~]42 CFR 442.12[-](1993), and [~~UCA~~]Subsection 26-21-2(15).

(8) "Patient day" means the care of one patient during a day of service, excluding the day of discharge.

(9) "Patient-driven payment model" (PDPM) means the Medicare prospective payment system for classifying skilled nursing facility patients in a covered Medicare Part A stay.

(~~9~~)~~10~~. "Property costs" means the fair rental value (FRV) established by this rule.

(1(~~0~~)) "RUGS" means the 34 RUG identification system based on the [~~R~~]resource [~~U~~]utilization [~~G~~]group [~~S~~]system established by Medicare to measure and ultimately pay for the labor, fixed costs, and other resources necessary to provide care to Medicaid patients. Each [~~RUG~~] is assigned a weight based on an assessment of its relative value as measured by resource utilization.

(1(~~1~~)) "RUGS score" means a total number based on the individual RUGS derived from a resident's physical, mental, and clinical condition, which projects the amount of relative resources needed to provide care to the resident. RUGS is calculated from the information obtained through the submission of the MDS data.

(1(~~2~~)) "Sole community provider" means a facility that is not an urban provider and is not within 30 paved road miles of another existing facility and is the only facility:

(a) within a city, if the facility is located within the incorporated boundaries of a city; or

(b) within the unincorporated area of the county if it is located in an unincorporated area.

(1(~~3~~))~~4~~(a) "Urban provider" means a facility located in a county [~~which~~]that has a population greater than 90,000 persons.

(b) "Rural provider" means a facility that is not an urban provider.

(1(~~4~~))~~5~~ "FRV Data Report" means a report that provides the Department with information relating to capital improvements to be included in the FRV calculation.

(1(~~5~~))~~6~~ "Banked beds" means beds that have been taken off[-]line by the provider, through the process defined by [~~Utah~~]the Department of Health, Bureau of Health Facility Licensing, Certification[;] and Resident Assessment, to reduce the operational capacity of the facility, but does not reduce the licensed[-]-bed capacity.

(1(~~6~~))~~7~~ "Bed [~~A~~]addition" means, as used in the fair rental value calculation, a capitalized project that adds additional beds to the facility. This must be new and complete construction. An increase in total licensed beds and new construction costs support a claim of additional beds.

(1(~~7~~))~~8~~ "Bed [~~R~~]replacement" means, as used in the fair rental value calculation, a capitalized project that furnishes a bed in the place of another, previously existing[;] bed. Room remodeling is not a replacement of beds. This must be new and complete construction.

(1(~~8~~))~~9~~ "Major Renovation" means, as used in the fair rental value calculation, a capitalized project with a cost equal to or greater than \$500 per licensed bed. A renovation extends the life, increases the productivity, or significantly improves the safety, [~~(~~]such as by asbestos removal[)], of a facility as opposed to repairs and maintenance [~~which~~]that either restore the facility to, or maintain it at[;] it[']s normal or expected service life. Vehicle costs are not a major renovation capital expenditure.

R414-504-3. Principles of Facility Case Mix Rates and Other Payments.

The following principles apply to the payment of freestanding and provider[-]-based nursing facilities for services rendered to [~~nursing care level I, II, and III~~]qualified Medicaid patients, as defined in Rule R414-502. This rule does not affect the system for reimbursement for intensive[-]-skilled Medicaid patient add-on amounts.

(1) [~~Approximately 59%~~]A portion of total payments [~~in aggregate~~]to nursing facilities for [~~nursing care level I, II, and III~~]qualified Medicaid patients [~~are~~]is based on a prospective facility case mix rate. In addition, these facilities shall be paid a flat basic operating expense payment[~~equal to approximately 29% of the total payments~~]. The balance of the total payments will be paid in aggregate to facilities as required by Section R414-504-3 based on other authorized factors, including property and behaviorally complex residents, in the proportion that the facility qualifies for the factor.

(2) Each quarter, the Department shall calculate a new case mix index for each nursing facility. The case mix index is based on three months of MDS assessment data. The newly calculated case mix index is applied to a new rate at the beginning of a quarter according to the following schedule:

(a) January, February, and March MDS assessments are used for July 1 rates.

(b) April, May, and June MDS assessments are used for October 1 rates.

(c) July, August, and September MDS assessments are used for January 1 rates.

(d) October, November, and December MDS assessments are used for April 1 rates.

(3) MDS [~~and Optional State Assessment (OSA)~~]data is used in calculating each facility's case mix index and [~~U~~]upper [~~P~~]payment [~~L~~]limit (UPL) gap. This information is required by the [~~S~~]state to calculate the case mix index. MDS[~~/OSA~~] is submitted by each facility and, as such, each facility is responsible for the accuracy of its data. Each facility shall ensure needed sections of the MDS are completed so that a PDPM score may be calculated. The Department may exclude inaccurate or incomplete MDS data from [~~the~~]calculations.

(4)(a) MDS assessments for [~~recipients~~]patients who are eligible for the [~~I~~]intensive [~~S~~]skilled[~~I~~] add-on are excluded from the case mix calculation.

(b) The state average case mix index excludes the following:

(i) [~~A~~]a facility with less than 20% [~~percent~~]of its total census days as Medicaid days, as reported on its FCP or FRV data report; or

NOTICES OF PROPOSED RULES

(ii) ~~[A]~~a facility having less than six ~~[(6)]~~months of data reported under Rule R414-401.

(c) The state average case mix index is used to set the rate for the following facilities:

(i) ~~[A]~~a facility with less than 20% ~~[percent]~~ of its total census days as Medicaid days, as reported on its FCP or FRV data report; or

(ii) ~~[A]~~a facility having less than six ~~[(6)]~~months of data reported under Rule R414-401.

(5) A facility may apply for a special add-on rate for behaviorally complex residents by filing a written request with the Division of ~~[Health Care]~~Medicaid and Health Financing. The Department may approve an add-on rate if an assessment of the acuity and needs of the patient demonstrates that the facility is not adequately reimbursed by the RUGS score for that patient. The rate is added on for the specific resident's payment and is not subsumed as part of the facility case mix rate. Utah's Bureau of ~~[Health Facility Licensure, Certification and Resident Assessment]~~Long Term Services and Supports will make the determination as to qualification for any additional payment. The Division of ~~[Health Care]~~Medicaid and Health Financing shall determine the amount of any add-on.

(6) Property costs are paid separately from the RUGS rate.

(7) Reimbursement for nursing home rates is in accordance with Attachment 4.19-D of the Utah Medicaid State Plan, which is incorporated by reference in ~~[Rule R414-1]~~Section R414-1-5.

(8) A sole community provider that is financially distressed may apply for a payment adjustment above the case mix index established rate. The maximum increase will be 7.5% above the average of the most recent Medicaid daily rate for all Medicaid residents in all freestanding nursing facilities in the state. The maximum duration of this adjustment is for no more than a total of 12 months per facility in any five-year period.

(a) The application shall propose what the adjustment should be and include a financial review prepared by the facility documenting:

(i) the facility's income and expenses for the past 12 months; and

(ii) specific steps taken by the facility to reduce costs and increase occupancy.

(b) Financial support from the local municipality and county governing bodies for the continued operation of the facility in the community is a necessary prerequisite to an acceptable application. The Department, the facility, and the local governing bodies may negotiate the amount of the financial commitment from the governing bodies, but in no case may the local commitment be less than 50% of the state share required to fund the proposed adjustment. Any continuation of the adjustment beyond ~~[(6)]~~six months requires a local commitment of 100% of the state share for the rate increase above the base rate. The applicant shall submit letters of commitment from the applicable municipality or county, or both, committing to make an intergovernmental transfer for the amount of the local commitment.

~~[(i)]~~ If the governmental agency receives donations in order to provide the financial contribution, it must document that the donations are ~~["bona fide"]~~as set forth in 42 CFR 433.54.

(c) The Department may conduct its own independent financial review of the facility ~~[prior to]~~before making a decision whether to approve a different payment rate.

(d) If the Department determines that the facility is in imminent peril of closing, it may make an interim rate adjustment for up to 90 days.

(e) The Department's determination shall be based on maintaining access to services and maintaining economy and efficiency in the Medicaid program.

(f) If the facility desires an adjustment for more than 90 days, it must demonstrate that:

(i) the facility has taken ~~[all]~~reasonable steps to reduce costs, increase revenue, and increase occupancy;

(ii) despite ~~[those]~~reasonable steps the facility is ~~[currently]~~losing money and forecast to continue losing money; and

(iii) the amount of the approved adjustment will allow the facility to meet expenses and continue to support the needs of the community it serves, without unduly enriching any party.

(g) If the Department approves an interim or other adjustment, it shall notify the facility when the adjustment is scheduled to take effect and how much contribution is required from the local governing bodies. Payment of the adjustment is contingent on the facility obtaining a fully executed binding agreement with local governing bodies to pay the contribution to the Department.

(h) The Department may withhold or deny payment of the interim or other adjustment if the facility fails to obtain the required agreement ~~[prior to]~~before the scheduled effective date of the adjustment.

(9) A provider may challenge the rate set pursuant to this rule using the appeal in Rule R410-14. This applies to which rate methodology is used as well as to the specifics of implementation of the methodology. A provider must exhaust administrative remedies before challenging rates in any other forum.

(10) In developing payment rates, the Department may adjust urban and non-urban rates to reflect differences in urban and non-urban labor costs. The urban labor costs reimbursement cannot exceed 106% of the non-urban labor costs. Labor costs are as reported on the most recent FCP, but do not include FCP-reported management, consulting, director, and home office fees.

(11) The Department reimburses swing beds, transitional care unit beds, and small health care facility beds that are used as nursing facility beds, using the prior calendar year state~~[-]~~wide average of the daily nursing facility rate.

~~[(12) [Withholding of Title XIX payments]~~
~~[(a)]~~Unless specified otherwise, the Department may withhold Title XIX payments from providers if:

~~[(i)]~~a there is a shortage in a resident trust account managed by the facility;

~~[(ii)]~~b the facility fails to submit a complete and accurate FCP as required by ~~[Utah State Plan]~~Attachment 4.19-D, Section 332 of the Utah Medicaid State Plan;

~~[(iii)]~~c the facility fails to submit timely, accurate ~~[Minimum Data Set (MDS)]~~ data;

~~[(iv)]~~d the facility owes money to the Division of ~~[Health Care]~~Medicaid and Health Financing because of an overpayment, nursing care facility assessment, civil money penalty, or other offset; or

~~[(v)]~~e the facility fails to respond within 10 business days to a written request for information.

(13) The Department shall provide written notice before withholding payments.

(14) When the Department rescinds withholding of payments to a provider, it will, without notice, resume payments according to the regular claims payment cycle.

(a) For ongoing operations, the Department will provide notice before withholding payments. The Department and provider may negotiate a repayment schedule acceptable to the Department for monies owed to the Department listed in ~~[s]~~Subsection R414-504-3(12)(a)(iv). The repayment schedule may not exceed 180 days.

(b) When the Department rescinds withholding of payments to a facility, it will resume payments according to the regular claims payment cycle.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: ~~January 1,~~ 2020

Notice of Continuation: October 17, 2017

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-35a

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R434-20	Filing No. 52997

Agency Information

1. Department:	Health	
Agency:	Family Health and Preparedness, Primary Care and Rural Health	
Room no.:	361	
Street address:	3760 S Highland Drive	
City, state:	Salt Lake City, UT 84106	
Mailing address:	PO Box 142005	
City, state, zip:	Salt Lake City, UT 84114-2005	
Contact person(s):		
Name:	Phone:	Email:
Ashley Moretz	801-273-6605	amoretz@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R434-20. Behavioral Health Workforce Reinvestment Initiative
3. Purpose of the new rule or reason for the change:
The purpose of this rule is to increase the number of behavioral health professionals working in publicly funded facilities in the state, the Department of Health (Department) may provide loan repayment grants to behavioral health professionals to repay loans taken for educational expenses in exchange for their agreement to serve for a specified period of time at an approved site in the state.
4. Summary of the new rule or change:
This rule implements the Utah Behavioral Health Workforce Reinvestment Initiative, which awards grant funds to behavioral health professionals to repay loans taken for educational expenses, in exchange for serving for a specified period of time in a publicly funded health care facility in the state.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
\$2,000,000 cost for loan repayment appropriated during 2020 interim. Otherwise, this rule will impose minor costs and duties to state government. Specifically, the Department will incur administrative costs of 5% to administer the program, which will be deducted from the appropriation.
B) Local governments:
The health care facility employing the eligible professional will provide education loan repayment assistance to the eligible professional in an amount equal to 10% of the total award amount provided to the eligible professional. There are no other expected costs to local governments, aside from the time it would take for them to fill out and complete the competitive employment site application. There are anticipated recruitment cost savings for those health care facilities that employ eligible professionals due to increased retention rates.
C) Small businesses ("small business" means a business employing 1-49 persons):
The health care facility employing the eligible professional will provide education loan repayment assistance to the eligible professional in an amount equal to 10% of the total award amount provided to the eligible professional. There are no other expected costs to small businesses, aside from the time it would take for them to fill out and complete the competitive employment site application. There are anticipated recruitment cost savings for those health care facilities that employ eligible professionals due to increased retention rates.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The health care facility employing the eligible professional will provide education loan repayment assistance to the eligible professional in an amount equal to 10% of the total award amount provided to the eligible professional. There are no other expected costs to non-small businesses, aside from the time it would take for them to fill out and complete the competitive employment site application. There are anticipated recruitment cost savings for those health care facilities that employ eligible professionals due to increased retention rates.
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 other expected costs to persons other than small businesses, non-small businesses, or state or local government entities. In addition to the award, eligible professionals will receive an amount equal to 10% of the

total award amount provided by the health care facility employing the eligible professional.

F) Compliance costs for affected persons:

There are no compliance costs 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	\$2,000,000	\$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	\$2,000,000	\$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	\$2,090,000	\$0	\$0
Total Fiscal Benefits	\$2,090,000	\$0	\$0
Net Fiscal Benefits	\$90,000	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Department of Health, Executive Director, Joseph K. Miner, MD, has reviewed and approved this regulatory fiscal analysis.

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

This rule fiscally impacts health care facilities that choose to participate as approved sites by providing 10% of the total grant award for any grant recipient employed by the facility.

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 26-1-30	Section 26-9-2	Section 26-9-1
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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: 09/14/2020

10. This rule change MAY become effective on: 09/21/2020

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:	07/21/2020
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R434. Health, Family Health and Preparedness, Primary Care and Rural Health.

R434-20. Behavioral Health Workforce Reinvestment Initiative. R434-20-1. Purpose.

This rule implements the Utah Behavioral Health Workforce Reinvestment Initiative, which awards grant funds to behavioral health professionals to repay loans taken for educational expenses, in exchange for serving for a specified period of time in a publicly funded facility in the state.

R434-20-2. Authority.

This rule is required by Sections 26-9-1 and 26-9-2, and is promulgated under the authority of Section 26-1-30.

R434-20-3. Definitions.

The definitions in Section 26-46-101 apply in this rule. In addition, the following definitions apply in this rule:

(1) "Applicant" means an individual who submits a completed application.

(2) "Approved site" means a site approved by the Department that meets the eligibility criteria established in this rule.

(3) "Committee" means the Utah Health Care Workforce Advisory Committee created by Section 26-1-7.

(4) "Department" means the Utah Department of Health.

(5) "Educational expenses" means the cost of education in a health care profession, including books, education equipment, fees, materials, reasonable living expenses, supplies, and tuition.

(6) "Educational loan" means a commercial, government, or government-guaranteed loan for educational expenses.

(7) "Full-time equivalency" means a 40 hour work week.

(8) "Grant" means a grant of funds under a grant agreement.

(9) "Loan repayment" means a grant of funds under a grant to defray educational loans in exchange for service for a specified period of time at an approved site.

(10) "Mental health therapist" means an individual licensed under:

(a) Title 58, Chapter 60, Mental Health Professional Practice Act, or Title 58, Chapter 61, Psychologist Licensing Act; or

(b) Title 58, Chapter 67, Utah Medical Practice Act, as a physician and surgeon, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as an osteopathic physician and surgeon who is engaged in the practice of mental health therapy.

(11) "Nurse" means an individual licensed to practice nursing under Title 58, Chapter 31b, Nurse Practice Act, or under Title 58, Chapter 44a, Nurse Midwife Practice Act.

(12) "Physician" means an individual licensed to practice under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(13) "Physician assistant" means an individual licensed to practice under Title 58, Chapter 70a, Physician Assistant Practice Act.

(14) "Postgraduate training" means internship, practicum, preceptorship, or residency training required for health care professionals' licensure.

(15) "Publicly funded" means any behavioral health facility that is either administered or run by a state, local or municipal government agency, contracted with a government agency to provide services on behalf of the government agency, or receives a substantial amount of state or federal funding, either state or federal.

(16) "Recipient" means an applicant selected to receive a loan repayment or scholarship grant under the act.

(17) "Service obligation" means professional service rendered at an approved site for a minimum of three years in exchange for a loan repayment grant.

R434-20-4. Behavioral Health Professionals Loan Repayment Grants -- Terms and Service.

(1) The Department may provide loan repayment grants to behavioral health professionals to repay loans for educational expenses in exchange for their agreement to serve for a specified period of time at an approved site in the state.

(2) Loan repayment grants may only repay bona fide loans taken by a behavioral health professional for educational expenses incurred while pursuing an education at an institution that awards a degree that qualifies a behavioral health professional to practice in their chosen field.

(3) Loan repayment grants under this section may not:

(a) be used to satisfy other obligations owed by the behavioral health professional under any similar program and may not be used to repay a loan that is in default at the time of application; or

(b) be in an amount greater than the total outstanding balance on the loans taken for educational expenses, including accrued interest.

(4) The Department shall disburse a grant when the recipient has performed at least six months of service at the approved site.

R434-20-5. Loan Repayment Grant Administration.

(1) The Department may consider committee recommendations in awarding loan repayment grants.

(2) A loan repayment grant recipient shall provide information reasonably necessary for administration of the program upon request by the Department.

(3) The Department shall determine the total amount of the loan repayment grant.

(4) The loan repayment grant recipient may not enter into any other similar agreement until the recipient satisfies the service obligation described in the grant agreement.

(5) Before receiving a loan repayment grant, the applicant must enter into a grant agreement with the Department that binds the applicant to the terms of the program.

(6) A recipient shall have a permanent, unrestricted license to practice a health care specialty in Utah before the first day of service under the grant agreement and maintain it for the duration of the service obligation.

(7) Prior to beginning to fulfill the service obligation, the site must obtain approval from the Department where the recipient will complete the service obligation.

(8) A loan repayment grant recipient shall obtain approval from the Department prior to changing the site where the recipient will fulfill the service obligation.

R434-20-6. Eligible Bona Fide Loans.

(1) An eligible bona fide loan is a loan used to pay for educational expenses leading to a qualifying behavioral health professional degree approved by the Department.

(2) A bona fide loan includes the following:

(a) a commercial loan made by a bank, credit union, savings and loan association, insurance company, school, or credit institution;

(b) a loan made by a federal, state, county, or city agency; or

(c) a loan made by another person that is documented by a contract notarized at the time of the making of the loan, indicative of an arm's length transaction, and with competitive term and rate as other loans available to students.

R434-20-7. Full-Time Equivalency Provisions for Recipients.

(1) The grant award amount shall be based on a full-time equivalency of 40 hours per week.

(2) A loan repayment grant recipient who provides services for less than 40 hours per week may receive a proportionately lower loan repayment grant.

(3) The Department may approve an award for a work schedule of less than 40 hours per week if the applicant's employer can demonstrate that performing less than 40 hours per week at the work site combined with other activities, such as on-call service, is greater than or equal to a full time equivalency.

R434-20-8. Approved Site Determination.

(1) Applications to host award recipients shall be submitted for approval to the Department.

(2) The Department shall use the following criteria to approve a site:

(a) the percentage of the population in the service area with incomes under 200% of the federal poverty level;

(b) the percentage of the population 65 years of age and over;

(c) the percentage of the population under 18 years of age;

(d) the distance to the nearest behavioral health care professional;

(e) the barriers to reaching the health care professionals;

(f) the ability of the site to provide support facilities and services for the requested health care professional;

(g) the financial stability of the site;

(h) the percent of patients in the service area who are without insurance or whose care is paid for by government programs, such as Medicaid, Medicare, and CHIP, federal, state or county funds;

(i) the applicant's policy and practice to provide care regardless of a patient's ability to pay; and

(j) whether a site is publicly funded.

(3) The Department may give preference to sites that provide letters of support from other individuals in the area served by the prospective employer, including:

(a) county and civic leaders;

(b) hospital administrators;

(c) business leaders, local chamber of commerce, citizens;

(d) local health departments;

(e) local substance abuse or mental health authorities, or their contracted providers; or

(f) other municipal funded programs.

(5) The Department may give preference to sites located in a service area designated by the Secretary of Health and Human Services as having a shortage of behavioral health care professionals and that are requesting a behavioral health specialist.

(6) A site must offer a salary and benefit package competitive with salaries and benefits of other behavioral health care professionals in the service area.

(7) A site shall provide educational loan repayment assistance to the eligible professional in an amount equal to 10% of the total award amount.

R434-20-9. Loan Repayment Grant Eligibility and Selection.

(1) In selecting a grant recipient for a loan repayment grant award, the Department may evaluate the applicant based on the following selection criteria:

(a) the extent to which an applicant's training in a health care specialty is needed at an approved site;

(b) the applicant's commitment to serve in an underserved area, demonstrated by any of the following:

(i) prior work or volunteer experience at a community or migrant health center, homeless shelter, public health department clinic, county substance use or mental health agency;

(ii) prior work or educational experience with the medically underserved through the Peace Corps, VISTA, or a similar volunteer program;

(iii) has cultural or language skills that are essential for provision of health care services to the medically underserved; or

(iv) other facts or experience that the applicant can demonstrate to the Department that establishes a commitment to serve in an underserved area.

(c) the applicant's:

(i) academic standing;

(ii) board certification or eligibility for board certification;

(iii) postgraduate training;

(iv) peer recommendations;

(v) the availability of the applicant to begin service, with greater consideration being given to applicants available for service at earlier dates; or

(vi) other facts that the applicant can demonstrate to the Department that establishes the applicant's professional competence;

(d) the applicant's financial need;

(e) the applicant's intention to serve patients during the service obligation who are without insurance or whose care is paid for by government programs, such as Medicaid, Medicare, and CHIP, federal, state or county funds;

(f) the applicant's willingness to provide care regardless of a patient's ability to pay; and

(g) the applicant's ability and willingness to provide care.

(3) An applicant must be a United States citizen or permanent resident.

R434-20-10. Loan Repayment Grant Service Obligation.

(1) The recipient shall enter into a grant agreement that includes the conditions of the award.

(2) In exchange for financial assistance under the act, the recipient shall serve for a period established at the time of the award in an underserved area at a site approved by the Department. The service period may not be for less than 36 months.

(3) Financial assistance for the recipient's service in an underserved area at a site approved by the Department will be disbursed according to the schedule established by the Department at the time of the award.

(4) Periods of internship, preceptorship, or other clinical training shall not satisfy the service obligation.

R434-20-11. Loan Repayment Grant Breach, Repayment, and Penalties.

Penalties for a recipient who fails to complete the service obligation shall be made in accordance with the grant agreement.

R434-20-12. Extension of Loan Repayment Grants.

(1) The Department may extend the period within which the loan repayment grant recipient must complete the service obligation:

(a) if the loan repayment grant recipient has signed a grant agreement for three years the loan repayment grant recipient may apply on or after the first day of service under a loan repayment grant to extend the grant agreement by one year;

(b) a loan repayment grant may be extended only at an approved site; and

(c) a loan repayment grant recipient that wishes to extend a loan repayment grant must inform the Department in writing at least six months prior to the end of the current service obligation.

(2) The service obligation may be extended only at an approved site.

R434-20-13. Release of Recipient from Service Obligation.

(1) The Department may release, in full or in part, a recipient from the service obligation under the grant agreement without penalty:

(a) if the recipient fails to meet the conditions of the award or if it reasonably appears the recipient will not meet the loan repayment grant conditions due to circumstances beyond their control;

(b) if the recipient is unable to fulfill the service obligation due to permanent disability that prevents the recipient from performing any work for remuneration or profit;

(c) if the recipient dies; or

(d) for other good cause shown, as determined by the Department.

(2) Extreme hardship sufficient to release the recipient without penalty includes:

(a) inability to complete the required schooling or fulfill service obligation due to permanent disability that prevents the recipient from completing school or performing any work for remuneration or profit; or

(b) a family member, for which the recipient is the principal care giver, has a life-threatening chronic illness.

(3) The Department may develop alternative service obligation criteria that a loan repayment grant recipient may use to fulfill the service obligation if the loan repayment grant recipient is unable to fulfill the service obligation at an approved site due to reasons beyond the recipient's control.

R434-20-14. Reporting Requirements of Award Recipients.

The Department may require an award recipient to provide information regarding the academic performance, commitment to underserved areas, continuing financial need, service obligation fulfillment, and other information reasonably necessary for the administration of the program during the period the recipient is in school, postgraduate training, and during the period the award recipient is completing the service obligation.

R434-20-15. Reporting Requirements of Approved Sites.

The Department may require the approved site to provide information regarding the award recipients' performance, commitment to underserved areas, service obligation fulfillment, and other information reasonably necessary for the administration of the program during the period the award recipient is completing the service obligation.

KEY: medically underserved, grants, scholarships
Date of Enactment or Last Substantive Amendment: 2020
Authorizing, and Implemented or Interpreted Law: 26-1-30

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R523-23	Filing No. 52985

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

General Information

2. Rule or section catchline:
R523-23. Assisted Outpatient Treatment Court Orders

3. Purpose of the new rule or reason for the change:
The purpose of this rule is to clarify the use of Assisted Outpatient Treatment (AOT) court orders by outlining the process for obtaining, renewing, and discharging AOT court orders, and creating standards and guidelines for the use of AOT court orders.

4. Summary of the new rule or change:
This rule requires:
1) AOT court orders to adhere to Sections 62A-15-630.4 and 62A-15-630.5, and must be signed by a judge;
2) Treatment providers are to create individualized treatment plans with an array of services that will provide optimal success in engagement and retention in treatment and recovery support plans;
3) Client choice is considered in all treatment options;
4) Treatment services are continually assessed;
5) Evidence based interventions are used when appropriate;
6) Local Mental Health Authorities will have a staff member who holds responsibility of tracking AOT court orders;
7) Local Mental Health Authorities are responsible to track all AOT court orders within their jurisdiction, including times when an order places treatment responsibility on an agency that is not a Local Authority;
8) AOT court orders that are recommended by a Designated Examiner must be accompanied with a report from the requesting examiner; and
9) Requests for discharge must show that the client no longer meets the requirements of Section 62A-15-630.5, and that the Local Mental Health Authority agrees with the discharge.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
The Division of Substance Abuse and Mental Health (Division) does not anticipate any costs or savings to state budgets as a result of this rule. The administrative requirements written into this rule are already being performed by the Department of Human Services.

B) Local governments:

The Division anticipates a cost, and no budget savings for local governments as a result of this rule. There are currently AOT teams at the Local Mental Health Authority Level that provided services for individuals who have been court ordered into service. The model of service delivery for these teams include a combination of the following services: outpatient, group, inpatient, day care, residential, housing and medication management, case management and peer support. Service configuration is based on the services needed to help clients successfully reenter a community setting, with some level of independence and safety.

The Division has reviewed the financial cost of providing an AOT type service from two Local mental Health Authorities Weber Human Services, and Davis Behavioral Health. Both Local Mental Health Authorities have expended \$1,200,000 each across 4 years, and each agency has served approximately 102 individuals people, with 106 and 97 respectively. The average cost per client calculates out to be about \$11,765 per person in a 4-year span of time.

The Division will use this data as a foundation for reporting increased costs to local government budgets. A 4 year cost of \$1.2 million per year will calculate out to a yearly cost of \$300,000 per year. The Division will report a per client cost per year using an estimation of 25 clients served each year with an average per client cost of \$12,000 per year.

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

The Division does not anticipate any cost or savings to small businesses as a result of this rule. It is not anticipated that any small businesses will file for an AOT court order or be mandated to provide AOT court ordered services.

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

The Division does not anticipate any costs or savings to non-small businesses as a result of this rule. It is not anticipated that any non-small businesses will file for an AOT court order or be mandated to provide AOT court ordered services.

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 Division does not anticipate any cost or savings to persons other than small businesses, non-small businesses, state, or local government entities budgets as a result of this rule. It is not anticipated that any persons other than small businesses, non-small businesses, state, or local government entities will file for an AOT court order or be mandated to provide AOT court ordered services.

F) Compliance costs for affected persons:

The Division has estimated a cost of \$12,000 per client annually for services, but most clients will have Medicaid, so most of these costs are expected to be covered by their insurance. For individuals without insurance, the Local Mental Health Authorities have a sliding fee scale, and other public funding to help cover the cost of service. The cost for affected individuals is not totally estimable but should be fairly negligible.

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	\$300,000	\$300,000	\$300,000
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$300,000	\$300,000	\$300,000
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	-\$300,000	-\$300,000	-\$300,000

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:

The Department does not anticipate any fiscal impacts on businesses as a result of compliance requirements in this rule, which only affects the publicly funded, county based Local Authority Mental Health system.

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):

Subsection 62A-15-105(2)	Section 62A-15-630.4	Section 62A-15-630.5
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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: 09/15/2020

10. This rule change MAY become effective on: 09/22/2020

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:	Mark Brasher, Deputy Director	Date:	07/27/2020
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R523. Human Services, Substance Abuse and Mental Health.

R523-23. Assisted Outpatient Treatment Court Orders.

R523-23-1. Authority.

(1) This rule establishes guidelines, procedures and standards for the use, and tracking of Assisted Outpatient Treatment (AOT) court orders described in Sections 62A-15-630.4 and 62A-15-630.5 as allowed in Subsection 62A-15-105(2).

R523-23-2. Purpose.

(1) This rule is enacted for the purpose of clarifying the use of AOT court orders by outlining the process for obtaining, renewing, and discharging AOT court orders, and creating standards and guidelines for the use of AOT court orders.

R523-23-3. Definitions.

As used in this rule:

(1) "Assisted Outpatient Treatment (AOT)": means court-supervised mental health treatment within the community for individuals with a prior history of non-compliance with community based treatment, and repeated psychiatric hospitalizations, or arrests associated with the person's mental illness.

(2) "Designated examiner (DE)" means:

(a) a licensed physician, preferably a psychiatrist, who is designated by the Division of Substance Abuse and Mental Health (division) as specially qualified by training or experience in the diagnosis of mental or related illness, or

(b) a licensed mental health professional designated by the division as specially qualified by training, and who has at least five years continual experience in the treatment of mental illness.

R523-23-4. General Provisions and Minimum Standards of Care.

(1) An AOT court order shall comply with Sections 62A-15-630.4 and 62A-15-630.5, and include the following:

(a) an individualized treatment plan that provides case management, and an outline of services that have been deemed most pertinent to the care of the client,

(b) personalized services that are flexible enough to meet the client's changing needs, and not written in a boilerplate format, and

(c) a treatment plan that is executed with sufficient service time, and adequate number of contacts as needed to provide the client with the best possible outcomes for successful reintegration into society.

(2) The AOT clinician shall provide the client with a full explanation of each available service to help increase engagement, and retention through the intervention process.

(3) The AOT clinician shall take into account the client's choice with regard to participation in services when developing the treatment plan.

(4) The AOT clinician shall continuously assessed AOT services to ensure that progress towards the individualized outcomes in the service plan is being achieved.

(5) Services provided under an AOT court order shall include any indicated or available evidence-based practices.

(6) Each Local Mental Health Authority (LMHA) shall have an identified staff member responsible for tracking each client under an AOT court order.

R523-23-5. Obtaining an AOT Court Order.

(1) An AOT court order shall be issued to a behavioral health provider when:

NOTICES OF PROPOSED RULES

- (a) the criteria as listed under Section 62A-15-630.5 are met, and
- (b) the order has been reviewed, and signed by a judge or mental health commissioner, and the order is filed with the court.
- (2) When an individual is receiving services from a provider other than a LMHA, the LMHA in the court's jurisdiction shall work with the provider to track treatment, and progress of the individual, including providing information regarding progress to the courts.
- (3) When an AOT court order is recommended by a DE, a written report shall be provided by the DE to the civil court.

R523-23-6. Request For Discharge of an AOT Court Order.

- (1) A request to discharge a court order may be filed by the LMHA at any time that the client no longer meets criteria as listed under Section 62A-15-630.5, and the request for discharge is agreed upon by the LMHA and the client in treatment.
- (2) The appropriate form shall be filed with the court prior to the review hearing.

KEY: assisted outpatient treatment court orders, AOT court orders

Date of Enactment or Last Substantive Amendment: 2020
Authorizing, and Implemented or Interpreted Law: 62A-15-630.4, 62A-15-630.5

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R590-225-3	Filing No. 52980

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	3110	
Building:	State Office Building	
Street address:	450 N State St.	
City, state:	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 or section catchline:
R590-225-3. Documents Incorporated by Reference

3. Purpose of the new rule or reason for the change:
The National Association of Insurance Commissioners (NAIC's) Uniform Property & Casualty Product Coding Matrix, which is incorporated by reference in the rule, has been updated. The rule is being changed to update the incorporation.
4. Summary of the new rule or change:
The incorporated document is being updated from a 2019 version to a 2020 version. The updates in the incorporated document itself clarify how certain types of insurance should be classified when filed, and update descriptions of certain types of insurance.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated cost or savings to the state budget. The changes in the incorporated document are clarifications and updates regarding filings for certain types of insurance. This may make it slightly easier to find certain filings by classification, which may result in an extremely minor time savings. The state will not be required to do any more or less work after the amended rule goes into effect.
B) Local governments:
There is no anticipated cost or savings to local governments. The changes in the incorporated document are clarifications and updates regarding filings for certain types of insurance and have no bearing on local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses. The changes in the incorporated document are clarifications and updates regarding filings for certain types of insurance and have no bearing on small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There is no anticipated cost or savings to non-small businesses. The changes in the incorporated document are clarifications and updates regarding filings for certain types of insurance. Insurance companies may have to classify certain insurance filings differently, but the changes are not expected to have a significant impact.
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 cost or savings to any other persons. The changes in the incorporated document are clarifications and updates regarding filings for certain types of insurance and have no bearing on any other persons.

F) Compliance costs for affected persons:

There are no compliance costs for any affected persons. Insurance companies may have to classify certain insurance filings differently, but the changes are not expected to have a significant impact.

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 Commissioner of the Insurance Department, Todd E. Kiser, 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 above analysis represents the Insurance Department's best estimate of the fiscal impact that this rule may have on businesses.

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

Todd E. Kiser, 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):

Subsection 31A-2-201(3)	Section 31A-2-201.1	Subsection 31A-2-202(2)
Section 31A-19a-203		

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)	NAIC Uniform Property & Casualty Product Coding Matrix
Publisher	National Association of Insurance Commissioners
Date Issued	January 1, 2020
Issue, or version	January 1, 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: 09/15/2020

10. This rule change MAY become effective on: 09/22/2020

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

NOTICES OF PROPOSED RULES

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:	Steve Gooch, Public Information Officer I	Date:	07/22/2020
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R590. Insurance, Administration.

R590-225. Submission of Property and Casualty Rate and Form Filings.

R590-225-3. Documents Incorporated by Reference.

(1) The department requires that the documents described in this rule shall be used for all filings.

(a) Actual copies may be used or you may adapt them to your word processing system.

(b) If adapted, the content, size, font, and format must be similar.

(2) The following filing forms are hereby incorporated by reference and are available on the department's web[—]site, <http://www.insurance.utah.gov>.

(a) "NAIC Uniform Property and Casualty Transmittal Document", dated January 1, 2019;

(b) "NAIC Uniform Property and Casualty Coding Matrix", dated January 1, 2020[49];

(c) "Utah Insurer Loss Cost Multiplier and Expense Constant Supplement Filing Forms", dated April 2017; and

(d) "Utah Workers Compensation Insurer Loss Cost Multiplier Filing Form", dated April 2017.

KEY: property casualty insurance filing

Date of Enactment or Last Substantive Amendment: ~~May 22, 2019~~ 2020

Notice of Continuation: February 13, 2019

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-2-201.1; 31A-2-202; 31A-19a-203

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R590-237-8	Filing No. 52982

Agency Information

1. Department:	Insurance
Agency:	Administration
Room no.:	3110
Building:	State Office Building
Street address:	450 N State St.
City, state:	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 or section catchline:
R590-237-8. Rural Health Notification
3. Purpose of the new rule or reason for the change:
This section of this rule is being amended to clarify when notice is required.
4. Summary of the new rule or change:
The change is being made to clarify when an insurer is required to make notifications in a change of status for a rural hospital.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated cost or savings to the state budget. The change clarifies when an insurer must notify of changes to independent hospitals and federally qualified health centers located in rural areas of Utah. These changes are known in the industry and insurers are already operating in compliance with the changes.
B) Local governments:
There is no anticipated cost or savings to local governments. The change clarifies when an insurer must notify of changes to independent hospitals and federally qualified health centers located in rural areas of Utah. There are no compliance requirements for local governments in the rule.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses. The change clarifies when an insurer must notify of changes to independent hospitals and federally qualified health centers located in rural areas of Utah. There are no compliance requirements for small businesses in the rule.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There is no anticipated cost or savings to non-small businesses. The change clarifies when an insurer must notify of changes to independent hospitals and federally

qualified health centers located in rural areas of Utah. These changes are known in the industry and insurers, which are the only non-small businesses affected, are already operating in compliance with the changes.

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 cost or savings to any other persons. The change clarifies when an insurer must notify of changes to independent hospitals and federally qualified health centers located in rural areas of Utah. There are no compliance requirements for any persons in this rule.

F) Compliance costs for affected persons:

The changes largely update the lists of independent hospitals and federally qualified health centers located in rural areas of Utah. These changes are known in the industry and insurers, which are the only non-small businesses affected, are already operating in compliance with the changes. There are no compliance costs for any 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	\$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 Commissioner of the Insurance Department, Todd E. Kiser, 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 above analysis represents the Insurance Department's best estimate of the fiscal impact that this rule may have on businesses.

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

Todd E. Kiser, 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):

Subsection 31A-2-201(3)(a)	Subsection 31A-45-501(8)(c)	
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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: 09/15/2020

10. This rule change MAY become effective on: 09/22/2020

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:	Steve Gooch, Public Information Officer I	Date:	07/22/2020
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R590. Insurance, Administration.

R590-237. Access to Health Care Providers in Rural Counties.

R590-237-8. Rural Health Notification.

(1) A managed care organization shall provide to a subscriber the notice required by Subsection 31A-45-501(8)(d)(ii) no later than at the time of enrollment or the time the group or individual contract and evidence of coverage are issued and upon request thereafter. The information must be included and easily accessible on the managed care organization's website. When a rural county, independent hospital, or federally qualified health center changes, the managed care organization shall provide an updated notice to each affected subscriber within 30 days of the change.

(2) When an independent hospital or federally qualified health center status changes, a managed care organization shall provide a notice to ~~each~~ the independent hospital and federally qualified health center in the managed care organization's service area ~~[the notice required by Subsection 31A-45-501(8)(d)(ii)]~~ within 30 days of the change.

KEY: health care providers

Date of Enactment or Last Substantive Amendment: ~~September 7, 2006~~ **2020**

Notice of Continuation: August 31, 2016

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-45-501

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R661-21	Filing No. 53000

Agency Information

1. Department:	Navajo Trust Fund	
Agency:	Trustees	
Street address:	151 E 500 N	
City, state:	Blanding, UT 84511	
Contact person(s):		
Name:	Phone:	Email:
Tony Dayish	435-678-1468	tdayish@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R661-21. Electronic Meetings

3. Purpose of the new rule or reason for the change:
This new rule enables the Utah Navajo Trust Fund (UNTF) Dineh Advisory Committee and the Board of Trustees to conduct meetings electronically.

4. Summary of the new rule or change:

This new rule enables the UNTF Dineh Advisory Committee (DAC) and the Board of Trustees to conduct meetings electronically. The DAC had always conducted its meetings at one of the eight Navajo Chapter communities but due to restrictions and safety concerns regarding the Covid-19 pandemic, the DAC has a need to conduct its committee meetings electronically. A Navajo Chapter is a local governmental chapter of the Navajo Nation (tribal) government. There are seven Navajo Chapters (on-reservation) and the Blue Mountain Dineh Community for off-reservation Navajos in San Juan County, Utah.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

There is no anticipated cost or savings effect on the state budget since UNTF does not receive state-appropriated monies. There is an anticipated savings to the UNTF travel budget since there will be fewer on-site meetings.

B) Local governments:

There is also an anticipated travel expense savings for local government (Utah Navajo Chapter) leaders that do not have to travel to any meetings that are held electronically.

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

There is an anticipated loss of business revenue to small businesses. Less travel by UNTF staff, DAC members, or Chapter leaders will result in less revenue to local gas stations, convenience stores, grocery stores, and caterers.

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

There is no anticipated cost or savings effect on non-small businesses. Most of the meetings are conducted via Google Meet with fewer than 50 people, so any revenue by Google would be negligible.

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 cost or savings effect on persons. The average person in the community would not be affected since most of the population would not attend our meetings in person. There would be a benefit of access to our meetings to a person that would like to participate in an electronic meeting that was not available before.

F) Compliance costs for affected persons:

There will be no compliance cost for affected persons. UNTF bears the responsibility of compliance with 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 (Eligible Utah Navajos)	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

Tony Dayish, UNTF Administrator, 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 local businesses in San Juan County would experience some loss of revenue by this new rule in a minor way due to less travel by UNTF staff, DAC members, and Utah Navajo Chapter leaders. The fiscal impact to the local business are inestimable.

This change was necessary due to Covid-19 and that pandemic is the root cause for loss of revenue for a lot of local businesses. As the effect of the pandemic recedes, UNTF will revert back to conducting DAC meetings in the local communities again.

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

Tony Dayish, UNTF Administrator

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):

Title 51, Chapter 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: 09/14/2020

10. This rule change MAY become effective on: 09/21/2020

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:	Tony Dayish, Administrator	Date:	07/31/2020
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NOTICES OF PROPOSED RULES

R661. Navajo Trust Fund, Trustees.

R661-21. Electronic Meetings.

R661-21-101. Purpose.

This rule establishes procedures for conducting Board and DAC meetings by electronic means.

R661-21-201. Procedures.

The following provisions govern any meeting at which one or more Board members or DAC members appear electronically pursuant to Section 52-4-207:

(1) The Administrator or his designee may establish an electronic meeting.

(2) Any Board member may request an electronic meeting for a Board meeting. Any DAC member may request an electronic meeting for a DAC meeting.

(3) Any such request shall be made not less than three business days prior to a meeting. The Administrator or designee may shorten this time frame upon a determination of a reasonable need.

(4) A request for an electronic meeting may be denied if the equipment necessary to accommodate the request, including arrangements for each Board or DAC member to view all relevant documents, is not available at the time and date of the meeting.

(5) If one or more members of the Board or DAC intend to participate electronically, public notices of the meeting shall so indicate. The meeting notice shall specify the anchor location where the Board or DAC members not participating electronically will be meeting and where interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

(6) Notice of the meeting and the agenda shall be posted at the anchor location and shall comply with Section 52-4-202.

(7) Notice of the possibility of an electronic meeting shall be given to the Board or DAC members at least 24 hours before the meeting. The notice shall describe how a Board member may participate in the meeting electronically.

(8) A Board member or DAC member shall be counted as present for purposes of a quorum and may fully participate and vote on any matter coming before the Board or DAC.

(9) The Board chair or DAC chair shall identify for the record all those who are appearing electronically. The Chair shall confirm votes by members of the Board or DAC who are not at the physical location of the meeting.

KEY: Utah Navajo Trust Fund (UNTF), electronic meetings, Dine' Advisory Committee, Board of Trustees

Date of Enactment or Last Substantive Amendment: 2020

Authorizing, and Implemented or Interpreted Law: 51-10

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R661-23	Filing No. 53001

Agency Information

1. Department:	Utah Navajo Trust Fund
Agency:	Trustees
Street address:	151 E 500 N
City, state:	Blanding, UT 84511

Contact person(s):		
Name:	Phone:	Email:
Tony Dayish	435-678-1468	tdayish@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R661-23. Utah Navajo Trust Fund Adult Education Program GED Financial Aid Rule
3. Purpose of the new rule or reason for the change:
This new rule enables UNTF to provide financial aid to eligible Utah Navajos for GED-related expenses.
4. Summary of the new rule or change:
This new UNTF Adult Education Program GED Financial Aid enables UNTF to provide financial aid to eligible low-income Utah Navajos for GED-related expenses with re-testing expenses and program completion expenses. GED is General Education Development, which is equivalent to and an alternative to a high school diploma.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated cost or savings effect on the state budget since UNTF does not receive state-appropriated monies.
B) Local governments:
There is no anticipated cost or savings effect on local governments other than their constituents will benefit by receiving financial aid for GED-related expenses.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated effect on small businesses. After completion of the program, the cost of the first test is included with the program, and the new rule will allow UNTF to pay for any necessary re-testing and for graduation items.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There is no anticipated cost or savings effect on non-small businesses. This program is slated to assist with a small amount of GED financial aid.

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**):

Most of the general public will not be affected. People that are participating in the GED program and qualify for this program (eligible Utah Navajos) will directly benefit for this financial aid program.

F) Compliance costs for affected persons:

There will be no compliance cost for affected persons. UNTF bears the responsibility of compliance with 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 (Eligible Utah Navajos)	\$360	\$480	\$480
Total Fiscal Benefits	\$360	\$480	\$480
Net Fiscal Benefits	\$360	\$480	\$480

H) Department head approval of regulatory impact analysis:

Tony Dayish, UNTF Administrator, 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 will have no costs or savings effects to businesses and governments. This is a small program for eligible Utah Navajos with an upper limit of \$160 per applicant.

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

Tony Dayish, UNTF Administrator

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):

Title 51, Chapter 10		
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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: 09/14/2020

10. This rule change MAY become effective on: 09/21/2020

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:	Tony Dayish, Administrator	Date:	07/31/2020
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NOTICES OF PROPOSED RULES

R661. Utah Navajo Trust Fund, Trustees

R661-23. Adult Education Program.

R661-23-101. Purpose.

The purpose of the Adult Education Program is to provide financial assistance for eligible Utah Navajo students nearing completion of a Graduate Equivalency Degree or the General Education Development (GED).

R661-23-201. Eligibility.

(1) Utah Navajo students applying for the Adult Education Program must meet the UNTF residency requirements in accordance with R661-3.

(2) Staff will coordinate with the education institution contact person to ensure the proposed student is eligible for UNTF funds.

(3) Only GED programs located and operating in San Juan County, Utah are eligible.

R661-23-301. Application Process.

(1) The Adult Education proposal form must be used to apply for Adult Education Program funds.

(2) The proposal form must contain the following:

(a) A GED course description and explanation of how it will meet graduation requirements;

(b) A budget showing the student's expected costs; and

(c) The contact information for the educational institution's appropriate contact person.

R661-23-401. Payments.

(1) The Board will determine the maximum amount of financial assistance for the Adult Education Program in the annual budget.

(2) Payments will be made to the appropriate entity.

(3) The institution's appropriate contact person and the Chapter Official must sign the "Request for Payment" form.

KEY: Utah Navajo Trust Fund (UNTF), GED, financial aid, adult education

Date of Enactment or Last Substantive Amendment: 2020 Authorizing, and Implemented or Interpreted Law: 51-10

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R957-1	Filing No. 52994

Agency Information

1. Department:	System of Technical Colleges (Utah)	
Agency:	Southwest Technical College	
Street address:	757 W 800 S	
City, state:	Cedar City, UT 84720	
Contact person(s):		
Name:	Phone:	Email:
James Mullenau	435-586-2899	jmullenau@stech.edu

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

General Information

2. Rule or section catchline:
R957-1. Student Due Process
3. Purpose of the new rule or reason for the change:
This rule is changing due to the recent changes to Title IX regulations. Federal Register / Vol. 85, No. 97 / Tuesday, May 19, 2020: Department of Education Office For Civil Rights, Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance. The document is available at: https://www.federalregister.gov/d/2020-10512 .
4. Summary of the new rule or change:
This change effectively excludes Title IX cases from standard student due process, as Title IX has its own, separate due process.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
There will be no fiscal impact to the state budget because this amendment only constitutes administrative changes.
B) Local governments:
There will be no fiscal impact to local governments because this amendment only constitutes administrative changes.
C) Small businesses ("small business" means a business employing 1-49 persons):
There will be no fiscal impact to small businesses because this amendment only constitutes administrative changes.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There will be no fiscal impact to non-small businesses because this amendment only constitutes administrative changes.
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 will be no fiscal impact to other persons because this amendment only constitutes administrative changes.
F) Compliance costs for affected persons:

Affected persons are the students of Southwest Technical College, and this amendment will not result in any costs to them.

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 Southwest Technical College President, Brennan M. Wood, 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 will be no fiscal impact.

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

Brennan M. Wood, President

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 53B-27-302		
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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: 09/14/2020

10. This rule change MAY become effective on: 09/21/2020

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:	James Mullenaux, Vice President of Student Services	Date:	08/04/2020
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R957. System of Technical Colleges (Utah), Southwest Technical College

R957.1 Student Due Process.

R957-1-1. Purpose.

(1) In accordance with Title 53B, Chapter 27, Section 302, Campus Civil Liberties Protection Act, this rule establishes general elements of due process that must be provided to a student prior to being dismissed or suspended for 10 days or more for non-academic code of conduct violations that are not Title IX violations.

R957-1-2. References.

- (1) United States Constitution, Amendment 14, Due Process[-];
- (2) Utah Constitution, Article 1, Section 7, Due Process of Law[-];
- (3) Title 53B, Chapter 27, Section 302, Campus Civil Liberties Protection Act[-];
- (4) Policy -[-] Student Conduct Policy, [~~July 29, 2019~~] July 1, 2020;
- (5) Policy -[-] Grievance Policy, [~~July 29, 2019~~] July 21, 2020;

NOTICES OF PROPOSED RULES

- (6) Policy ~~[-]~~ Harassment, Nondiscrimination and Equal Opportunity, ~~[July 29, 2019.]~~July 21, 2020; and
- (7) Policy - Title IX Due Process Policy, July 21, 2020.

R957-1-3. General Rights of Due Process.

(1) In matters of non-academic conduct that may result in either dismissal or a minimum 10-day suspension and that are not Title IX violations, the college will provide students the following minimum due process:

(a) Notice~~[-]~~. Prior to being interviewed about allegations of misconduct, the college shall provide students with notice of the allegations against them and of their right to have an advisor throughout the process who may, but need not be, an attorney.

(i) During an inquiry, investigation, or other informal process, an advisor may only advise the student and may not actively participate in the investigation or informal process.

(b) Explanation of the evidence~~[-]~~. Prior to a formal hearing, unless prohibited by reasonable circumstances, each party shall provide to the hearing committee chair, ~~[f]or hearing officer~~[s]~~~~, copies of the documents they intend to submit as evidence and a list of witnesses they intend to call during the formal hearing. This information will be shared with both parties. In all circumstances, including informal processes, the college will provide students an explanation of the evidence against them.

(c) Opportunity to respond~~[-]~~. The college will provide students an opportunity for a full hearing at which they can respond to the allegations and evidence against them. With the agreement of ~~[all]~~the parties, the college may also provide an informal hearing or opportunity to respond or an agreed upon informal resolution.

(i) At formal adjudicatory hearings, students may have an advisor advocate for them. The student's advisor may be an attorney. The student's advisor may actively participate in the hearing in accordance with the college's policies regarding active participation.

R957-1-4. Standard of Proof.

Students are presumed not to have engaged in a ~~[policy]~~student conduct violation until the college has established a violation by a preponderance of the evidence.

R957-1-5. Incorporations of Colleges' Policies.

The college has adopted the following policies that are incorporated by reference within this rule:

- (1) Policy - Student Conduct Policy, ~~[July 29, 2019.]~~July 1, 2020;
- (2) Policy ~~[-]~~ Grievance Policy, ~~[July 29, 2019.]~~July 21, 2020;
- (3) Policy - Harassment, Nondiscrimination and Equal Opportunity, ~~[July 29, 2019.]~~July 21, 2020; and
- (4) Policy - Title IX Due Process Policy, July 21, 2020.

KEY: civil liberty, technical college, technical education, due process

Date of Enactment or Last Substantive Amendment: ~~[September 23, 2019]~~2020

Authorizing, and Implemented or Interpreted Law: 53B-27-302

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.):	R36-1	Filing No. 52972

Agency Information

1. Department:	Administrative Services	
Agency:	Records Management Committee	
Building:	State Archives	
Street address:	346 S Rio Grande St	
City, state, zip:	Salt Lake City, UT 84101	
Mailing address:	346 S Rio Grande St	
City, state, zip:	Salt Lake City, UT 84101	
Contact person(s):		
Name:	Phone:	Email:
Kendra Yates	801-531-3856	kendrayates@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R36-1. Records Management Committee
3. Effective Date:
07/20/2020
4. Purpose of the new rule or reason for the change:
The purpose of the new rule is to establish procedures for Records Management Committee meetings, particularly when held electronically, and retention schedule review and approval.
5. Summary of the new rule or change:
Rule R36-1 outlines the processes used to prepare, hold, and document a Records Management Committee meeting, including provisions for holding a meeting electronically, pursuant to Section 52-4-207. It also establishes procedures for authorizing retention schedules. (EDITOR'S NOTE: A corresponding proposed new Rule R36-1 is under Filing No. 52975 in this issue, August 15, 2020, 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:	
Subsection 63G-3-304(1)(a) allows emergency rulemaking if not doing so would "cause an imminent peril to the public health, safety, or welfare." The Records Management Committee (Committee) is experiencing a global COVID-19 pandemic and meeting in person has been deemed by the governor to be a public health risk. The Committee has not yet established a rule allowing them to meet electronically, as is required by Subsection 52-4-207(2)(a), although the process has been started. In the meantime, the Committee needs to meet. Rather than meet in person, thereby increasing the risk of spreading COVID-19, the Committee is filing this emergency rule to allow them to meet electronically while their proposed rule goes through the normal process of review, approval, and publication. (EDITOR'S NOTE: A corresponding proposed new Rule R36-1 is under Filing No. 52975 in this issue, August 15, 2020, of the Bulletin.	

Fiscal Information

7. Aggregate anticipated cost or savings to:	
A) State budget:	
This rule has no fiscal impact on state government budget because the proposed rule is administrative in nature and does not increase required resources.	
B) Local governments:	
This rule has no fiscal impact on local governments because the proposed rule is administrative in nature and does not increase required resources.	
C) Small businesses ("small business" means a business employing 1-49 persons):	
This rule has no fiscal impact on small businesses because the proposed rule is administrative and internal in nature.	
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 rule has no fiscal impact on persons because the proposed rule is only administrative and internal in nature.	
8. Compliance costs for affected persons:	
There is no cost for complying with the proposed rule.	

9. A) Comments by the department head on the fiscal impact this rule may have on businesses:
This proposed rule will not have a fiscal impact on businesses, as it is only administrative in nature, and clarifies processes utilizing staff as they are in their current roles and equipment already in place.
B) Name and title of department head commenting on the fiscal impacts:
Tani Downing, 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 63A-12-112	Section 63A-12-113	Section 52-4-203
Section 63G-2-604		

Agency Authorization Information

Agency head or designee, and title:	Kenneth R. Williams, Director	Date:	07/13/2020
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R36. Administrative Services, Records Management Committee, R36-1. Records Management Committee.

R36-1-1. Authority and Purpose.

This rule establishes procedures for Records Management Committee meetings and retention schedule review and approval under Title 63A Chapter 12 Public Records Management Act and Sections 63A-12-112, 63A-12-113, 52-4-203, and 63G-2-604, as authorized under Section 63A-12-104.

R36-1-2. Definitions for Rules in Title R36.

(1) In addition to terms defined in Sections 63G-2-103 and 63A-12-100.5, the following terms are defined for rules under Title R36:

(a) "Committee" means the Records Management Committee in accordance with Section 63A-12-112.

(b) "State Archives support staff" means individuals assigned by the state archivist to provide support services for the Records Management Committee, as required in Subsection 63A-12-113(4).

(c) "Records and Information Management (RIM) Specialist" means a staff member at the Utah Division of Archives and Records Service whose responsibilities include establishing standards for the preparation of retention schedules and providing records management training and consultation services to the records officers of governmental entities, as required in Subsection 63A-12-101(2).

R36-1-3. Records Management Committee Meeting Preparation.

(1) Committee members shall receive a meeting folder from State Archives support staff no later than three business days before the scheduled meeting. Folders shall include an agenda,

retention schedules submitted for review and approval, and any other materials requiring review and discussion by the committee.

(2) Committee members are encouraged to read and review the submitted retention schedules before the meeting so they can come to the meeting prepared to ask questions and discuss the retention schedules.

3) If committee members would like clarification regarding a submitted retention schedule prior to the meeting, committee members may communicate with the Records and Information Management (RIM) Specialist at the State Archives who submitted the item.

R36-1-4. Records Management Committee Meeting Procedures.

(1) Meetings shall be held at least once each quarter, as required in Subsection 63A-12-113(1)(b).

(2) A committee chair, appointed from among the committee's members, as required in Subsection 63A-12-113(1)(a), shall be elected by the committee members annually. There is no term limit for chairmanship.

(3) Meetings shall be called to order by the committee chair and may start once a quorum of four members is present and the meeting is being recorded.

(4) Third party presentations may be permitted. Prior to the hearing, the third party shall notify State Archives support staff of intent to present.

(5) RIM Specialists from the State Archives shall present proposed retention schedules. The committee shall discuss the schedules and ask questions as needed.

(6) Committee members shall vote whether or not to approve each schedule. A majority vote of members present is required for a motion to pass. If a retention schedule is not approved, committee members shall make recommendations as to how to modify or improve the schedule for approval at the next meeting, if applicable.

(7) The committee may adjourn, reschedule, or continue a meeting on the motion of a member.

(8) The following provisions govern any meeting at which one or more members of the committee or a party appears telephonically or electronically, pursuant to Section 52-4-207.

(a) The anchor location is the physical location from which the electronic meeting originates or from which the participants are connected. The anchor location, unless otherwise designated in the notice, shall be at the offices of the Utah Division of Archives and Records Service, Salt Lake City, Utah.

(b) If one or more committee members or parties may be participating electronically or telephonically, public notices of the meeting shall so indicate. In addition, the notice shall specify the anchor location where the members of the committee not participating electronically or telephonically shall be meeting and where interested persons and the public may attend and monitor the open portions of the meeting.

(c) When notice is given of the possibility of a member of the committee appearing electronically or telephonically, any member of the committee may do so and shall be counted as present for purposes of a quorum and may fully participate and vote on any matter coming before the committee. At the commencement of the meeting, or at such time as any member of the committee initially appears electronically or telephonically, the committee chair shall identify for the record all those who are appearing telephonically or electronically. Votes by members of the committee who are not at the physical location of the meeting shall be confirmed by the committee chair.

R36-1-5. Authorizing Approved Retention Schedules.

(1) The committee chair and a State Archives support staff member who attended the meeting shall sign the approved retention schedule(s) after the meeting, signifying committee approval.

(2) Committee approval authorizes and requires relevant governmental entities to maintain and destroy records according to the schedule, per Section 63G-2-604. Once a retention schedule is approved and signed, it supersedes previous retention schedules for the applicable records.

(3) Approved retention schedules are posted on the State Archives website and go into effect immediately.

R36-1-6. Records Management Committee Meeting Records.

(1) Section 52-4-203 requires any public body to establish and implement procedures for the public body's approval of the written minutes of each meeting. This rule establishes procedures for the Records Management Committee to approve the written minutes of each meeting.

(2) All meetings of the committee shall be recorded. The recording of the open meeting shall be made available to the public within three business days. Access to the audio recordings shall be provided by State Archives support staff on the Utah Public Notice Website.

(3) Approved written minutes shall be the official record of the meetings and shall be maintained by State Archives support staff.

(a) Written minutes shall be read by members prior to the next scheduled meeting, including electronic meetings.

(b) Written minutes from meetings shall be made available no later than three business days prior to the date of the next regularly scheduled committee meeting.

(c) When minutes are complete but awaiting official approval, they are a public record and must be marked as "Draft."

(d) At the next meeting, at the direction of the committee chair, minutes shall be amended and/or approved with individual votes recorded in the minutes. The minutes shall be then marked as "Approved."

(e) A copy of the approved minutes, as well as public meeting materials, shall be made available for public access on the Utah Public Notice Website.

KEY: meeting procedures, records management, review procedures, state records

Date of Enactment or Last Substantive Amendment: July 20, 2020

Authorizing and Implemented or Interpreted Law: 52-4-203; 63A-12-104; 63A-12-112; 63A-12-113; 63G-2-604; 63G-3-201

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R357-33	Filing No. 52986

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:	
R357-33. COVID-19 PPE Support Grant Program Rule	
3. Effective Date:	
07/27/2020	
4. Purpose of the new rule or reason for the change:	
During the 2020 Fifth Special Session, H.B. 5010 passed and directed the Governor's Office of Economic Development (GOED) to establish and administer the COVID-19 PPE Support Grant Program that grants rental relief to certain businesses that have purchased or will purchase items that will protect the businesses' employees and customers.	
5. Summary of the new rule or change:	
This rule will codify the administration of the COVID-19 PPE Support Grant Program by establishing definitions, authority, program and documentation requirements. The program will provide assistance to small businesses in the state that have been impacted by the COVID-19 pandemic.	
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:	
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 PPE Support Grant Program that will provide assistance businesses in the state that have or will make equipment purchases to protect employees and customers.	

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 PPE Support Grant 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 PPE Support Grant Program is designed to serve Utah's 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 emergency 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 COVID-19 PPE Support Grant Program will help many of Utah's businesses that made adjustments to protect employees and customers. GOED hopes the grants that are distributed will help Utah businesses operate safely during the pandemic.
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-15-302		

Agency Authorization Information

Agency head or designee, and title:	Val Hale, Executive Director	Date:	07/27/2020
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**R357. Governor, Economic Development.
R357-33. COVID-19 PPE Support Grant Program Rule.
R357-33-101. Title.**

This rule is known as the "COVID-19 PPE Support Grant Program Rule."

R357-33-102. Definitions.

In addition to the definitions under Section 63N-15-102 the following terms are defined:

- (1) "Awardee" means a qualified business entity that has been awarded a grant under the program.
- (2) "Full-time equivalent employee" means any person working 40 or more hours per week on behalf of the business entity and may include an employment position filled by more than one employee, if the aggregate hours worked by the employees are equal to or greater than 40 hours per week.
- (3) "Safe in Utah" means the COVID-19 PPE Support Grant Program.

R357-33-103. Authority.

This rule is adopted by the office under the authority of Section 63N-15-302.

R357-33-104. Documentation Requirements.

- (1) An applicant shall submit to the office:
 - (a) signed W-9 form; and
 - (b)(i) for COVID-19 expenses that have incurred documentation of the actual expenses incurred; and
 - (ii) for projected COVID-19 expenses an estimate of expenses that will be incurred prior to December 31, 2020.

R357-33-105. Program Requirements.

- (1) 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.
- (2) Grant award shall not exceed \$50,000.
- (3) An awardee shall provide only one application under the program.
- (4) An awardee shall follow best practices to protect the health and safety of employees and customers.
- (5) A business is prohibited from requesting or claiming CARES act funds from any other source for the same expenses claimed under this program.

KEY: Safe in Utah, small business, COVID-19 assistance
Date of Enactment or Last Substantive Amendment: July 27, 2020
Authorizing, and Implemented or Interpreted Law: 63N-15-302

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R357-34	Filing No. 52993

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:	
R357-34. COVID-19 Impacted Businesses Grant Program Rule	
3. Effective Date:	
07/30/2020	
4. Purpose of the new rule or reason for the change:	
During the 2020 Fifth Special Session, H.B. 5010 passed and directed the Governor's Office of Economic Development (GOED) to establish and administer the COVID-19 Impacted Businesses Grant Program that grants rental relief to certain businesses that will provide financial incentives to customers.	
5. Summary of the new rule or change:	
This rule will codify the administration of the COVID-19 Impacted Businesses Grant Program by establishing definitions, authority, program, and documentation requirements. The program will provide assistance to small businesses in the state that have been impacted by the COVID-19 pandemic.	
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:
 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 Impacted Businesses Grant Program that will provide assistance to businesses that in turn will provide financial incentives to customers.

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 Impacted Businesses Grant 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):

Twenty-five million dollars in funds were allocated towards the program. GOED anticipates a large portion will be awarded to small businesses in the state. The COVID-19 Impacted Businesses Grant Program is designed to serve Utah's 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 **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.

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 COVID-19 Impacted Businesses Grant Program will help many of Utah's businesses that lost revenue and customers due to the COVID-19 pandemic. GOED hopes

the grants that are distributed will help Utah businesses continue to succeed.

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-15-302		

Agency Authorization Information

Agency head or designee, and title:	Val Hale, Executive Director	Date:	07/30/2020
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R357. Governor, Economic Development.

R357-34. COVID-19 Impacted Businesses Grant Program Rule. R357-34-101. Title.

This rule is known as the "COVID-19 Impacted Businesses Grant Program Rule."

R357-34-102. Definitions.

In addition to the definitions under Section 63N-15-102 the following terms are defined:

(1) "Awardee" means a qualified business entity that has been awarded a grant under the program.

(2) "Full-time equivalent employee" means any person that on average works 40 or more hours per week on behalf of the business entity.

(3) "Shop in Utah" means the COVID-19 Impacted Businesses Grant Program.

(4) "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.

R357-34-103. Authority.

This rule is adopted by the office under the authority of Section 63N-15-202.

R357-34-104. Documentation Requirements.

(1) An applicant shall submit to the office a:

- (a) signed W-9 form;
- (b) profit & loss statement for:
 - (i) March 2019 through June 2019 if the business entity began operating prior to July 1, 2019; or
 - (ii) February 2020 if the business entity began operating on or after July 1, 2019;
- (c) profit & loss statement for March 2020 through June 2020; and

- (d) financial incentive plan that includes:
(i) budget of the proposed plan; and
(ii) timeline that establishes the funds will be expended prior to December 30, 2020.

R357-34-105. Program Requirements.

(1) 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.

(2) Grant award shall not exceed \$50,000.

(3) An awardee shall submit only one application under the program.

(4) An awardee shall follow best practices to protect the health and safety of employees and customers.

(5) An award may be denied or reduced if the financial incentive proposed by the applicant has a limited customer reach or otherwise insufficiently incentivizes the customer, as reasonably determined by the office.

(6) An awardee shall use the grant funds to offset the economic impact of COVID-19 and will expend all funds on or before December 30, 2020.

(7) An awardee shall provide the financial incentive to the customer on or before December 30, 2020 and the customer may redeem the financial incentive any time up to and including June 30, 2021.

(8) An awardee shall submit to audits and information requests as reasonably requested by GOED or its designee.

KEY: Safe in Utah, small business, COVID-19 assistance
Date of Enactment or Last Substantive Amendment: July 30, 2020
Authorizing, and Implemented or Interpreted Law: 63N-15-202

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R930-5-8	Filing No. 52999

Agency Information

1. Department:	Transportation	
Agency:	Preconstruction	
Room no.:	Administrative Suite, 1st Floor	
Building:	Calvin Rampton	
Street address:	4501 S 2700 W	
City, state, zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 148455	
City, state, zip:	Salt Lake City, UT 84114-8455	
Contact person(s):		
Name:	Phone:	Email:
Linda Hull	801-965-4253	lhull@utah.gov
James Palmer	801-965-4197	jimpalmer@agutah.gov

Lori Edwards	801-965-4048	loriedwards@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R930-5-8. Maintenance
3. Effective Date:
07/31/2020
4. Purpose of the new rule or reason for the change:
This emergency rule change is needed to clarify the Department of Transportation's (Department) intent when it originally promulgated this rule.
5. Summary of the new rule or change:
Subsection R930-5-8(1) is changing to clarify that the purpose of Section R930-5-8 is to assign responsibility for maintenance of railroad crossings through state owned right of way as described in Section R930-5-8, unless a prior signed written agreement to the contrary applies. This change also clarifies the Department's original intent was that "responsibility" includes the obligation to perform and pay for the maintenance.
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:
A dispute exists over interpretation of this rule that will lead to delay in a planned construction project. The project in question is for the purpose of improving safety at an intersection on a state road and a railroad crossing. A delay in the project will create an imminent peril to the public health, safety, or welfare at the intersection according to the Logan City Safety Manager.

Fiscal Information

7. Aggregate anticipated cost or savings to:
A) State budget:
The Department anticipates this rule change will lead to a savings to the state budget because it will avoid a costly legal dispute.

B) Local governments:
This change may lead to savings to local governments by avoiding current and possible future disputes over maintenance costs at railroad crossings.
C) Small businesses ("small business" means a business employing 1-49 persons):
This change may lead to savings to small businesses by avoiding unnecessary delays in maintenance and construction projects related to railroad crossings through state owned right of way.
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):
The Department does not anticipate any costs or savings to persons other than small businesses, non-small businesses, state, or local government entities because the change does not apply to persons other than railroads that own tracks that cross through highway right of way.
8. Compliance costs for affected persons:
This change will not lead to costs or savings to affected persons because this change clarifies the Department's intent and does not change anything.
9. A) Comments by the department head on the fiscal impact this rule may have on businesses:
This change will not have a fiscal impact on businesses in general.
B) Name and title of department head commenting on the fiscal impacts:
Carlos M. Braceras, 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 54-4-15	Section 41-6a-1205	Section 72-1-201
Section 54-4-14		

Agency Authorization Information

Agency head or designee, and title:	Carlos M. Braceras, Executive Director	Date:	07/29/2020
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R930. Transportation, Preconstruction.

R930-5. Establishment and Regulation of At-Grade Railroad Crossings.

R930-5-8. Maintenance.

(1) Responsibility for maintenance is as described in this section unless a ~~separate~~ prior signed written agreement applies. Responsibility means the obligation to perform and pay for the maintenance.

(a) The Railroad is responsible for the maintenance of all Railroad Passive Warning Devices and Active Warning Devices within the Railroad right-of-way.

(b) If the Railroad has a property interest in the right-of-way, the Railroad is responsible for the maintenance of Crossing material within the Railroad right-of-way and two feet beyond each outside rail for Crossings without concrete crossing panels or edge of concrete crossing panel.

(c) On a temporary Highway Detour Crossing, the Railroad shall be responsible for the maintenance of pavement, Active Warning Devices, and Passive Warning Devices within the Railroad right-of-way at expense of the Highway Authority.

(d) When the Railroad alters the railway due to track and ballast maintenance, the Railroad shall coordinate their work with the Highway Authority so the pavement approaches can be adjusted to provide a smooth and level Crossing surface.

(e) When the Highway Authority changes the Highway profile, through construction or maintenance activities, the Highway Authority shall coordinate their work with the Railroad so the tracks can be adjusted to provide as smooth and level a Crossing surface as possible.

(f) Where a Highway structure overpasses a Railroad, the Highway Authority is responsible for the maintenance of the entire structure and its approaches.

(g) Where a Highway underpasses a Railroad and the Railroad owns the right-of-way in fee title, the Highway Authority is responsible for the maintenance of the Highway and the entire structure below and including the deck plate, girders, handrail, and parapets. The Railroad is responsible for the maintenance of the ballast, ties, rails and any portion of the supporting structure above the top of the ballast deck plate between parapets.

(i) If the Highway Authority owns the right-of-way in fee title, the Railroad is responsible for the maintenance of the entire structure unless a ~~separate~~ prior signed written agreement applies.

(ii) Cost of repairing damages to a Highway or a Highway structure, occasioned by collision, equipment failure, or derailment of the Railroad's equipment shall be borne by the Railroad.

(h) Responsibility for maintenance of private industrial trackage not owned by a Railroad that crosses a Highway shall be as follows:

(i) When a facility, plant, or property owner receives goods and services from a Railroad over private industrial trackage that crosses a Highway, maintenance of the Crossing shall be the responsibility of the industry owning the trackage, or as agreed to by the parties.

(ii) When the Crossing becomes a safety hazard to vehicles and is not maintained, the Department and/or the Railroad shipping the goods and services shall notify the industry owning the trackage in writing to maintain or replace the Crossing material.

(iii) If the industry owning the trackage does not maintain or replace the Crossing material by a specified date, the Department shall order the Railroad to cease and desist operations across the Crossing.

(iv) If the industry owning the trackage does not respond to the order to maintain or replace the Crossing material the Department shall arrange to have the Crossing material replaced and bill the industry owning the trackage for the expenses to repair the trackage.

KEY: railroad, crossing, transportation, safety
Date of Enactment or Last Substantive Amendment: July 31, 2020
Notice of Continuation: November 2, 2016
Authorizing, and Implemented or Interpreted Law: 41-6a-1205; 54-4-14; 54-4-15; 72-1-201

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.):	R58-15	Filing No. 50122

Agency Information

1. Department:	Agriculture and Food	
Agency:	Animal Industry	
Street address:	350 N Redwood Road	
City, state, zip:	Salt Lake City, UT 84115	
Mailing address:	PO Box 146500	
City, state, zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	801-982-2204	ambermbrown@utah.gov
Leann Hunting	801-982-2242	leannhunting@utah.gov
Kelly Pehrson	801-982-2202	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R58-15. Collection of Annual Fees for the Wildlife Damage Prevention Act
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 is enacted under the authority of Subsection 4-2-103(1)(i) which allows the Department of Agriculture and Food (Department) to make rules necessary for the effective administration of agricultural laws in the , and Section 4-23-107, which allows the Department to charge and collect predator control fees under the Agricultural and Wildlife Damage Prevention 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.

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 should continue because it provides fair consistent guidelines for the collection and non-collection exemption of wildlife damage fees, as well as allows the Department to provide predator control services to individuals in the state.

Agency Authorization Information

Agency head or designee, and title:	R. Logan Wilde, Commissioner	Date:	07/21/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R156-55e	Filing No. 50289

Agency Information

1. Department:	Commerce
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FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Agency:	Occupational and Professional Licensing	
Building:	Heber M. Wells Building	
Street address:	160 E 300 S	
City, state, zip:	Salt Lake City UT 84111-2316	
Mailing address:	PO Box 146741	
City, state, zip:	Salt Lake City UT 84114-6741	
Contact person(s):		
Name:	Phone:	Email:
Chris Rogers	801-530-6720	crogers@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R156-55e. Elevator Mechanics Licensing Rule
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Title 58, Chapter 55, provides for the licensure and regulation of elevator mechanics. Subsection 58-1-106(1)(a) provides that the Division of Occupational and Professional Licensing (Division) may adopt and enforce rules to administer Title 58. Subsections 58-1-202(1)(a) and 58-55-103(1)(b)(i) provide that the Construction Services Commission's duties, functions, and responsibilities includes recommending to the director appropriate rules. This rule was enacted to clarify the provisions of Title 58, Chapter 55, with respect to elevator mechanics.
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:
Since this rule was last reviewed in September 2015, this rule has been amended one time in April 2019. The Division has received no written comments with respect to this rule.
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 should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 55. This rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements, and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession.

Agency Authorization Information

Agency head or designee, and title:	Mark B. Steinagel, Division Director	Date:	04/30/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R251-102	Filing No. 50344
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Agency Information

1. Department:	Corrections	
Agency:	Administration	
Street address:	14717 S Minuteman Dr	
City, state, zip:	Draper, UT 84020	
Contact person(s):		
Name:	Phone:	Email:
Steve Gehrke	385-237-8040	sgehrke@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R251-102. Release of Communicable Disease Information
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 is authorized under Sections 63G-3-201 and 64-13-10, and Subsection 64-13-36(3)(a) of the Utah Code. The purpose of this rule is to designate the persons who will be permitted access to information in the Department of Corrections' (Department) inmate medical files.
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 comments on this rule have been received since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The purpose of this rule is to designate the persons who will be permitted access to information in Department inmate medical files. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Mike Haddon, Executive Director	Date:	06/10/2020
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Agency Authorization Information

Agency head or designee, and title:	Mike Haddon, Executive Director	Date:	07/23/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R251-109	Filing No. 50350
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R357-11	Filing No. 50853
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Agency Information

1. Department:	Corrections	
Agency:	Administration	
Street address:	14717 S Minuteman Dr	
City, state, zip:	Draper, UT 84020	
Contact person(s):		
Name:	Phone:	Email:
Steve Gehrke	385-237-8040	sgehrke@utah.gov
Please address questions regarding information on this notice to the agency.		

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	801-792-8764	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R251-109. Sex Offender Treatment Providers
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 is authorized by Sections 63G-3-201, 64-13-10, 64-13-25, and 76-5-406.5, of the Utah Code. The purpose of this rule is to define the criteria and guidelines for the minimum standards, application and approval process, and program requirements for sex offender treatment providers.
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 comments on this rule have been received since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The purpose of this rule is to define the criteria and guidelines for the minimum standards, application and approval process, and program requirements for sex offender treatment providers. Therefore, this rule should be continued.

General Information

2. Rule catchline:
R357-11. Technology Commercialization and Innovation Program (TCIP)
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
In accordance with Section 63N-3-204, this rule establishes the requirements for participation in the Technology Commercialization and Innovation Program.
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 comment has been received since the last five-year review of this rule.
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 is required under Section 63N-3-204 and is necessary for administration of the program. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Val Hale, Executive Director	Date:	07/20/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R386-703	Filing No. 50909

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:
Mark E. Jones	801-538-6191	markejones@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R386-703. Injury Reporting Rule
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Rule R386-703 is authorized under Sections 26-1-30 and 26-6-3. These sections authorizes the Utah Department of Health (Department) to require reporting for the control of diseases, health hazards, or injuries of public health concern.
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:
There were no comments received in opposition to the continuation of Rule R386-703. The last substantive amendment was enacted on August 23, 2017.
Summary of comments received since the last five-year review which were implemented in an amendment made effective on August 23, 2017: 1) Add laboratory definition. Define the types of laboratories for reporting injuries.

2) Lower the case definition of an elevated blood lead level (blood lead level of concern) from ≥ 10 microg/dL to ≥ 5 microg/dL. In 2012, the Centers for Disease Control and Prevention (CDC) lowered their blood lead level of concern, for blood lead levels in children to ≥ 5 microg/dL and therefore align Utah with CDC's guidelines.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The Department recommends the continuation of this rule, allowing the Department to continue to identify the causes and risks of major injuries of public health concern, which helps guide public health policy and actions to reduce or eliminate those injuries. The Department received no comments in opposition to the continuation of Rule R386-703.

Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	07/31/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R746-510	Filing No. 51988

Agency Information

1. Department:	Public Service Commission	
Agency:	Administration	
Building:	Heber M. Wells Building	
Street address:	160 E 300 S, 4th Floor	
City, state, zip:	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 catchline:
R746-510. Funding for Speech and Hearing Impaired Certified Interpreter Training
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 54-8b-10(5)(e) authorizes the Public Service Commission (PSC) to use funds from the Universal Public Telecommunications Service Support Fund to assist in training individuals to qualify as certified interpreters for those who are deaf, hard of hearing, or severely speech impaired.

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 comments have been received since the last five-year review of this rule.

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 allows for individuals to become certified as interpreters to provide services for the deaf, hard of hearing, and severely speech-impaired community. Continuation of this rule is necessary to provide a framework under which members of the hearing impaired community may continue to receive interpreting services from qualified individuals.

Agency Authorization Information

Agency head or designee, and title:	Thad LeVar, PSC Chair	Date:	07/27/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R930-8	Filing No. 52147
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Agency Information

1. Department:	Transportation	
Agency:	Preconstruction	
Room no.:	First Floor Administration Suite	
Building:	Calvin Rampton	
Street address:	4501 S 2700 W	
City, state, zip:	Salt Lake City, UT 84129	
Mailing address:	PO Box 148455	
City, state, zip:	Salt Lake City, UT 84114-8455	
Contact person(s):		
Name:	Phone:	Email:
Linda Hull	801-965-4253	lhull@utah.gov
James Palmer	801-965-4197	jimpalmer@agutah.gov

Lori Edwards	801-965-4048	loriedwards@agutah.gov
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Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:

R930-8. Utility Relocations Required by Highway Projects

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 is required by Subsection 72-6-116(2).

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 were received during and since the last five-year review of this rule from interested persons supporting or opposing this rule.

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 is required by Subsection 72-6-116(2) and the Department of Transportation follows the rule when utility relocation is necessary. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Carlos M. Braceras, Executive Director	Date:	07/25/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R994-207	Filing No. 52233
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Agency Information

1. Department:	Workforce Services	
Agency:	Unemployment Insurance	
Building:	Olene Walker Building	
Street address:	140 E 300 S	
City, state, zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 45244	
City, state, zip:	Salt Lake City, UT 84145-0244	

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Contact person(s):		
Name:	Phone:	Email:
Amanda B. McPeck	801-517-4709	ampeck@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R944-207. Unemployment
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 35A-1-104(1) of the Employment Security Act authorizes the Department of Workforce Services (Department) to adopt rules as authorized by Title 35A. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Subsection 35A-4-502(1)(b) authorizes the Department to make rules necessary for the administration of the Employment Security Act. Subsection 35A-4-207 of the Employment Security Act requires the Department to prescribe rules as the Department considers necessary to further distinguish

total unemployment, part-total unemployment, and partial unemployment.

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 comments have been received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Section 35A-4-207 of the Employment Security Act provides a broad definition of unemployment. This rule is necessary to explain what is considered to be total, part-total, and partial unemployment and what is not. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Jon Pierpont, Executive Director	Date:	07/31/2020
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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

Archives and Records Service

No. 52792 (Amendment): R17-6 Records Storage and Disposal -- Archives Responsibility
Published: 06/15/2020
Effective: 08/07/2020

Records Committee

No. 52789 (Amendment): R35-1 State Records Committee Appeal Hearing Procedures
Published: 06/15/2020
Effective: 08/07/2020

No. 52791 (Amendment): R35-4 Compliance with State Records Committee Decisions and Orders
Published: 06/15/2020
Effective: 08/07/2020

Agriculture and Food

Administration

No. 52825 (New Rule): R51-7 Open and Public Meetings Act Electronic Meetings
Published: 07/01/2020
Effective: 08/10/2020

Horse Racing Commission (Utah)

No. 52824 (Amendment): R52-7 Horse Racing
Published: 07/01/2020
Effective: 08/10/2020

Plant Industry

No. 52822 (Amendment): R68-26 Industrial Hemp Product Registration and Labeling
Published: 07/01/2020
Effective: 08/10/2020

No. 52813 (Amendment): R68-28 Cannabis Processing
Published: 07/01/2020
Effective: 08/10/2020

No. 52808 (Amendment): R68-29 Quality Assurance Testing on Cannabis

Published: 07/01/2020
Effective: 08/10/2020

No. 52625 (New Rule): R68-33 Industrial Hemp Retailer Permit

Published: 06/15/2020
Effective: 08/10/2020

Commerce

Consumer Protection

No. 52858 (Amendment): R152-32a Pawnshop and Secondhand Merchandise Transaction Information Act Rule
Published: 07/01/2020
Effective: 08/10/2020

Education

Administration

No. 52803 (Amendment): R277-309 Appropriate Licensing and Assignment of Teachers
Published: 06/15/2020
Effective: 07/23/2020

Environmental Quality

Air Quality

No. 52601 (Repeal and Reenact): R307-165 Emission Testing
Published: 07/01/2020
Effective: 08/10/2020

No. 52751 (Amendment): R307-410 Modeling of Criteria Pollutant Impacts in Attainment Areas
Published: 06/01/2020
Effective: 08/06/2020

NOTICES OF RULE EFFECTIVE DATES

Financial Institutions

Nondepository Lenders
No. 52788 (Repeal): R343-10 Title Lenders Registration
with the Nationwide Database
Published: 06/15/2020
Effective: 07/23/2020

Governor

Energy Development (Office of)
No. 52672 (Repeal and Reenact): R362-2 Renewable
Energy Systems Tax Credit
Published: 06/15/2020
Effective: 07/29/2020

Health

Disease Control and Prevention, Environmental Services
No. 52636 (Amendment): R392-302 Design, Construction
and Operation of Public Pools
Published: 04/15/2020
Effective: 08/10/2020

Human Services

Child and Family Services
No. 52801 (Amendment): R512-80 Definitions of Abuse,
Neglect, and Dependency
Published: 07/01/2020
Effective: 08/10/2020

Juvenile Justice Services

No. 52793 (Amendment): R547-13 Guidelines for
Admission to Secure Youth Detention Facilities
Published: 06/15/2020
Effective: 07/28/2020

Insurance

Administration
No. 52828 (Amendment): R590-102 Insurance Department
Fee Payment Rule
Published: 07/01/2020
Effective: 08/10/2020

No. 52794 (Amendment): R590-131 Accident and Health
Coordination of Benefits Rule
Published: 06/15/2020
Effective: 07/22/2020

No. 52802 (Amendment): R590-237 Access to Health Care
Providers in Rural Counties
Published: 06/15/2020
Effective: 07/22/2020

Lieutenant Governor

Elections
No. 52758 (New Rule): R623-6 Verification of Requests to
Withhold Voter Registration Information
Published: 06/01/2020
Effective: 08/01/2020

Natural Resources

Oil, Gas and Mining; Oil and Gas
No. 52804 (Amendment): R649-1 Definitions
Published: 06/15/2020
Effective: 07/27/2020

Oil, Gas and Mining; Oil and Gas
No. 52805 (Amendment): R649-2 General Rules
Published: 06/15/2020
Effective: 07/27/2020

No. 52806 (Amendment): R649-3 Drilling and Operating
Practices
Published: 06/15/2020
Effective: 07/27/2020

Wildlife Resources

No. 52840 (Amendment): R657-6 Taking Upland Game
Published: 07/01/2020
Effective: 08/10/2020

No. 52841 (Amendment): R657-9 Taking Waterfowl ,
Wilson's Snipe and Coot
Published: 07/01/2020
Effective: 08/10/2020

No. 52842 (Amendment): R657-54 Taking Wild Turkey
Published: 07/01/2020
Effective: 08/10/2020

Navajo Trust Fund

Trustees
No. 52699 (Amendment): R661-6 Utah Navajo Trust Fund
Higher Education Financial Assistance and Scholarship
Program
Published: 05/15/2020
Effective: 07/17/2020

No. 52700 (Amendment): R661-7 Utah Navajo Trust Fund
Housing Projects Program
Published: 05/15/2020
Effective: 07/17/2020

No. 52701 (Amendment): R661-9 Funding
Published: 05/15/2020
Effective: 07/17/2020

No. 52702 (Amendment): R661-10 UNTF STT Funding
Published: 05/15/2020
Effective: 07/17/2020

No. 52703 (Amendment): R661-13 Veterans' Housing
Program Policy
Published: 05/15/2020
Effective: 07/17/2020

Transportation Commission
Administration
No. 52798 (Repeal and Reenact): R940-3 Procedures for
Transportation Infrastructure Loan Fund Assistance
Published: 06/15/2020
Effective: 07/25/2020

End of the Notices of Rule Effective Dates Section