

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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Nancy L. Lancaster, Managing Editor

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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 801-538-3003. 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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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.

Establishing a Revised Policy for Legislative Communications of Executive Branch Departments and Employees, Utah Amended Exec. Order No. 2018-1

EXECUTIVE ORDER AMENDING EXECUTIVE ORDER 2018-001

Establishing a Revised Policy for Legislative Communications of Executive Branch Departments and Employees

WHEREAS, Executive Branch departments and employees play a crucial role in the policy-making process by contributing information and subject-matter expertise;

WHEREAS, the Executive Branch has an interest in ensuring that such information and subject-matter expertise is provided to the Legislature in the most effective and efficient manner;

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, by the authority vested in me by the Constitution and laws of this State do hereby order that the Executive Branch and all Executive Branch employees are subject to the following directions:

1. Application

a. This order applies to all Executive Branch department employees and replaces and supersedes Executive Order 2018-001 of March 5, 2018, and any prior executive order establishing a policy for legislative communications of Executive Branch departments and employees. Independently elected officers may adopt this policy. This order does not apply to any employee of the Legislature or Judiciary.

b. Each Executive Branch department shall amend its existing policy to be consistent with the directions set forth below.

2. Definitions

a. "Department" means a department of the Executive Branch and includes an institution of higher education, State Tax Commission, National Guard, and Board of Pardons and Parole.

b. "Division" means a division or other agency within an Executive Branch department.

c. "Executive director" means the head of a department or an equivalent position by any title and includes the president of an institution of higher education or the president's designee.

d. "Legislative action" means a bill, resolution, amendment, veto override, or any other matter pending or proposed in either house of the Utah Legislature or a committee of the Utah Legislature during a General Session or Special Session of the Utah Legislature.

e. "Legislative communications" means the attempt by an employee of the State of Utah in the capacity of an employee of the State of Utah to influence, either directly or indirectly, by communicating with a legislator, the passage or defeat of legislative action; provided, however, that "Legislative Communications" does not include (i) requests to a legislator to sponsor legislation; (ii) communications between or within departments of the Executive Branch; (iii) testifying before a legislative body, including a legislative committee or task force; (iv) answering questions asked by a legislator; (v) communications with legislative staff; or (vi) communications required by law.

f. "State employee" means an individual employed by a department of the Executive Branch other than an executive director.

3. Legislative Communications

a. Official Positions. Departments may represent the Governor by taking official positions on legislative action. Divisions may not take a position on legislative action that is contrary to the position of the Governor or the department.

b. An executive director may engage in legislative communications without restriction at any time and for any reason.

c. An executive director may authorize one or more state employee(s) to engage in legislative communications for any purpose consistent with the interests of the department or division; provided, however, that an executive director shall not authorize more employees than reasonably necessary to accomplish such legislative communication.

4. Prohibition on Certain Other Communications. Except with the consent of the Governor or as provided in Section 5, no executive director or state employee may directly contact a non-governmental entity or individual for the sole purpose of requesting that such individual or entity advocate for or against the policy positions of a department or legislator on legislative action.

5. No Limitation on Free Speech. Nothing in this Executive Order should be interpreted as a limitation on an individual's right to free speech on the individual's own time and with non-state resources; provided, however, that an individual acting pursuant to this Section 5 may not state or imply that he or she is representing the interests of the Governor or a department.

IN TESTIMONY, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 4th day of August 2018.

(State Seal)

Gary R. Herbert
Governor

Attest:

Spencer J. Cox
Lieutenant Governor

2018/001/AEO

Calling the Sixty-Second Legislature Into the Tenth Extraordinary Session, Utah Proclamation No. 2018-10E

P R O C L A M A T I O N

WHEREAS, since the close of the 2018 General Session of the 62nd Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

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

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and Laws of the State of Utah, do by this Proclamation call the Senate only of the 62nd Legislature of the State of Utah into the Tenth Extraordinary Session at the Utah State Capitol in Salt Lake City, Utah, on the 15th day of August 2018, at 4:00 p.m., for the following purpose:

For the Senate to consent to appointments made by the Governor to positions within state government of the State of Utah since the close of the 2018 General Session of the Legislature of the State of Utah.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Utah State Capitol in Salt Lake City, Utah, this 13th day of August 2018.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2018/10/E

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 August 02, 2018, 12:00 a.m., and August 15, 2018, 11:59 p.m. are included in this, the September 01, 2018, 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 October 1, 2018. 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 30, 2018, 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 OF 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

Agriculture and Food, Plant Industry
R68-24
Industrial Hemp Research Pilot
Program for Growers

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43145

FILED: 08/10/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed rule sets forth the licensing and operational requirements for individuals seeking to cultivate or grow industrial hemp in the state of Utah in accordance with Subsection 4-41-103(4).

SUMMARY OF THE RULE OR CHANGE: This proposed rule sets forth the licensing requirements for individuals interested in growing industrial hemp. It establishes that a person must be at least 18 years of age to apply for a license and they must submit a criminal history. Additionally, this proposed rule places limitations on where Industrial hemp can be grown and restrictions on what material can be sold. It outlines the testing and sampling methods the Department of Agriculture and Food (Department) will use for testing industrial hemp. This proposed rule outlines the necessary reporting requirements and time frame for which those reports are due in order to maintain a license.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 4-41-103(4)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** As this is a new program, the state will have the additional cost of starting up the program and purchasing the needed equipment to effectively run the Industrial Hemp Program. The Department will need to hire two new employees, an office specialist to oversee the application, licensing, and reporting processes, and an inspector to go out and inspect the growing areas and to take samples to the lab. It is estimated that the new employees in the first year will cost \$136,000. These employees will need to receive training which the Department anticipates to cost \$10,000; testing equipment and standards necessary to test the plants for THC compliance; and standards and laboratory equipment will run \$5,000. Sampling equipment and supplies, such as GPS, scissors, and sampling containers, is estimated to cost \$3,000. The total cost of the first year of the program is then estimated to be \$154,000. The second year the Department anticipates that the cost will stay much the same with some slight decreases in inspection supplies, as well as the cost for training, but the Department does anticipate increasing by at least one employee. It is likely, depending on the number of growers, that another

inspector will need to be hired to cover both the northern and southern ends of the state. Therefore, the cost of employees would be \$216,000. The training cost would be \$5,000. The cost of laboratory testing standards and maintenance of the laboratory equipment will remain the same at \$5,000. The Department will need to purchase another vehicle and GPS and sampling supplies for the new inspector which is estimated at \$31,500. For a total cost of the second year being \$257,500. It may be necessary to hire more inspectors as the program grows in the third year, but the Department anticipates that the cost for the program will remain similar to the second year in the third year. The cost may decrease if no new inspectors are needed as training will not be necessary nor will new vehicles or supplies. The cost of employees will remain the same at \$216,000 and laboratory cost remain at \$5,000. Sampling cost of training will be \$0 and there will be minimal sampling equipment which the Department estimates at \$700. The total cost then for year three would be \$221,700. The Department has a grower license fee of \$500. Each grower must pay the licensing fee before they are issued a license. The Department is unable to estimate the amount this licensing fee will generate for the Department as this is a new and developing industry and there are currently no legal growers of industrial hemp in the state. However, the Department will be generating some revenue from the licensing fees.

◆ **LOCAL GOVERNMENTS:** Local governments may experience an increase in law enforcement costs due to the nature of the crop being grown. Local law enforcement may wish to coordinate more with the Department in making sure the growing sites are licensed with the Department. The Department will be working with them to notify them of all licensed growing areas. However, those are decisions that will need to be left up to local governments to determine and the Department cannot adequately estimate those costs.

◆ **SMALL BUSINESSES:** This rule will allow for the growth of a new and innovative industry in the state of Utah. Previously, the growth of industrial hemp was not allowed under both state and federal laws. This would allow for individuals to start a new business. As it has not been allowed, the proposed rule does not place any additional cost to the business aside from the \$500 licensing fee assessed by the Department.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This proposed rule allows for the development of a new industry in the state. It will allow for the production and distribution of new products to the consumers of the state. However, due to the nature of the industry it is impossible for the Department to estimate the cost or benefits to the consumer.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be a \$500 licensing fee assessed for a license. Due to the nature of the business and the previous legal statutes of industrial hemp, there has been no prior legal growing of the plant. Therefore, the only cost to affected persons is the

licensing fee. All other costs are the costs of engaging in the growing of industrial hemp.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule will open new markets to our agricultural producers which have previously been closed to them. This proposed rule will allow for producers to diversify the crop products and attempt to enter into a new and emerging market. The licensing fee is necessary for the Department to comply with both state and federal law to ensure that the product is industrial hemp and not marijuana.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 AGRICULTURE AND FOOD
 PLANT INDUSTRY
 350 N REDWOOD RD
 SALT LAKE CITY, UT 84116-3034
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Melissa Ure by phone at 801-538-4976, or by Internet E-mail at mure@utah.gov
 ♦ Robert Hougaard by phone at 801-538-7187, by FAX at 801-538-7189, or by Internet E-mail at rhougaard@utah.gov
 ♦ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at sericson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2018

AUTHORIZED BY: LuAnn Adams, Commissioner

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$500	\$500	\$500
Net Fiscal Benefits:	-\$154,000	-\$258,200	-\$222,500

*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 for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses
 This rule will allow for the growth of a new and innovative industry in the state of Utah. Previously, the growth of industrial hemp was not allowed under both state and federal laws. This would allow for individuals to start a new business. As it has not been allowed, the proposed rule does not place any additional cost to the business aside from the \$500 licensing fee assessed by the Department. Because it is a new program, the Department is unable to estimate how many participants there will be in program.

The Commissioner of the Department of Agriculture and Food, LuAnn Adams, has reviewed and approved this fiscal analysis.

R68 Agriculture and Food, Plant Industry.
R68-24. Industrial Hemp Research Pilot Program for Growers.

R68-24-1. Authority and Purpose.
Pursuant to Section 4-41-103(4), this rule establishes the standards, practices, procedures, and requirements for participation in the Utah Industrial Hemp Research Pilot Program for the growing and cultivation of industrial hemp.

- R68-24-2. Definitions.**
- 1) "Department" means the Utah Department of Agriculture and Food.
 - 2) "Growing Area" means a contiguous area on which hemp is grown whether inside or outside.
 - 3) "Handle" or "handling" means possessing, transporting or storing industrial hemp for any period of time.
 - 4) "Industrial Hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by weight.
 - 5) "Licensee" means a person authorized by the department to grow industrial hemp.
 - 6) "THC" means total composite tetrahydrocannabinol, including delta -9- tetrahydrocannabinol and tetrahydrocannabinolic acid.

R68-24-3. Grower License Application Requirements.

- 1) The applicant shall be a minimum of eighteen (18) years old.
- 2) The applicant is not eligible to receive a license if they have:
 - a) been convicted of a felony or its equivalent; or

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$154,000	\$257,700	\$221,700
Local Government	\$0	\$0	\$0
Small Businesses	\$500	\$500	\$500
Non-Small Businesses	\$500	\$500	\$500
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$155,000	\$258,700	\$222,700
Fiscal Benefits			
State Government	\$500	\$500	\$500
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

_____ b) been convicted of a drug-related misdemeanor within the last ten (10) years.

_____ 3) An applicant seeking an industrial hemp cultivation license shall submit the following to the department:

_____ a) a completed application form provided by the department;

_____ b) the legal description of the growing area;

_____ c) the global positioning coordinates for the center of the outdoor growing area;

_____ d) maps of the growing area in acres or square feet, and the location of different varieties within the growing area;

_____ e) a statement of the intended end use or disposal for all parts of the hemp plant grown; and

_____ f) a plan for the storage of seed or clone and harvested industrial hemp material as specified in R68-24-7.

_____ 4) An applicant shall submit a nationwide criminal history from the FBI completed within three (3) months of their application.

_____ 5) The applicant shall submit a fee as approved by the legislature in the fee schedule.

_____ 6) The department shall deny any applicant who does not submit all required information.

R68-24-4. Growing Area.

_____ 1) A licensee shall not plant or grow industrial hemp on any site not listed on the grower license application and shall take immediate steps to prevent the inadvertent of industrial hemp the authorized grow area.

_____ 2) A licensee shall not grow hemp in any structure used for residential purposes.

_____ 3) A licensee shall not handle or store leaf, viable seed, or floral material from hemp in a structure used for residential purposes.

_____ 4) A licensee shall not grow industrial hemp outdoors within 1,000 feet of a school or a public recreational area.

_____ 5) The licensee shall post signage at the plot location's entrance and where the plot is visible to a public roadway in a manner that would reasonably be expected to be seen by a person in the area.

_____ 6) The signage shall include the following information:

_____ a) the statement, "Utah Department of Agriculture Industrial Hemp Research Pilot Program";

_____ b) the name of the licensee;

_____ c) the Utah Department of Agriculture and Food licensee number; and

_____ d) the department's telephone number.

R68-24-5. Reporting Requirements.

_____ 1) Prior to planting the growing area, the licensee shall submit a Pre-Planting Report, on a form provided by the department, which includes:

_____ a) a description of the industrial hemp varieties to be planted.

_____ b) a description of all other plant material being grown in the growing area;

_____ c) the number of acres to be planted or the amount of seed or clone to be planted in the growing area, and

_____ d) the source of the seed or clone being planted.

_____ 2) Within ten (10) days of planting the licensee shall submit a Planting Report, on a form provided by the department, which includes:

_____ a) a list of all industrial hemp varieties and other plants in the growing area which were planted;

_____ b) the actual acres planted or the seeding rate or number of clones planted in the growing area;

_____ c) adjusted maps and global position coordinates for the area planted; and

_____ d) the amount of seed that was not used.

_____ 3) Thirty (30) days prior to harvest the licensee shall submit a Harvest Report, on a form provided by the department, which includes:

_____ a) any contracts entered into between the grower and an industrial hemp processor or a statement of the intended use of all industrial hemp cultivated in the growing area;

_____ b) any intended storage areas for industrial hemp or industrial hemp material; and

_____ c) the harvest dates and location of each variety cultivated in the growing areas;

_____ i) the licensee shall immediately inform the department of any changes in the reported harvest date which exceeds five (5) days.

_____ 4) Thirty (30) days after completion of harvest the licensee shall submit a Production Report, on a form provided by the department, which includes:

_____ a) yield from the growing area;

_____ b) THC testing reports, if any, conducted at the licensee's request;

_____ c) water application rates;

_____ d) report of any pest infestations or problems; and

_____ e) a statement on the final disposition of the all industrial hemp product in the growing area.

_____ 5) Failure to submit the required reports may result in the revocation of the grower license.

R68-24-6. Inspection and Sampling.

_____ 1) The growing area shall be subject to random sampling to verify the THC concentration does not exceed 0.3% on a dry weight basis by department officials.

_____ 2) The department shall have complete and unrestricted access to all industrial hemp plants and seeds whether growing or harvested, all land, buildings and other structures used for the cultivation of storage of industrial hemp.

_____ 3) Samples of each variety of industrial hemp shall be randomly sampled from the growing area by department officials.

_____ 4) The department shall conduct the laboratory testing on the sample to determine the THC concentration on a dry weight basis by gas chromatography.

_____ 5) The sample taken by the department shall be the official sample.

_____ 6) The department shall test the growing area within thirty (30) days prior to harvest.

_____ 7) The department shall notify the licensee of the test results from the official sample within a reasonable amount of time.

_____ 8) Any laboratory test result greater than 0.3% THC may be considered a violation of the terms of the license and may result in a license revocation.

9) Upon a test result with greater than 0.3% THC, the department shall notify the grower.

10) Any laboratory test result with 1% THC or greater will be turned over to the appropriate law enforcement agency and revocation of the license will be immediate.

R68-24-7. Storage of Industrial Hemp and Hemp Material.

1) A licensee may store hemp and hemp material provided:

a) the licensee notifies the department, in writing, of the location of the storage facility;

b) the licensee informs the department of the type and amount of product being stored in the storage facility;

c) the storage facility is owned by the licensee; and

d) the storage facility is outside of the public view.

e) the storage facility is secured with physical containment and reasonable security measures.

2) The storage area is subject to random inspection by department officials.

R68-24-8. Transportation of Industrial Hemp Materials.

1) A licensee shall not transport any industrial hemp materials, except to a storage facility owned by the licensee, until the department has notified the licensee of the test results from the growing area.

2) A licensee may move nonviable hemp products without an industrial hemp transportation permit.

3) An industrial hemp transportation permit is required for each day and each vehicle used to move industrial hemp or industrial hemp products.

4) The licensee shall submit an industrial hemp transportation permit request form provided by the department.

5) Requests for an industrial hemp transportation permit shall be submitted to the department at least five (5) business days prior to movement.

6) An industrial hemp transportation permit authorizes the transportation of industrial hemp materials only within the borders of the state.

7) The department may deny any application for a movement permit that is not completed in accordance with this rule.

R68-24-9. Restrictions on the Sale and Transfer of Industrial Hemp and Hemp Materials.

1) A licensee shall not sell or transfer living plants, viable plants, viable seeds, leaf material, or floral material to any person not licensed by the department or to any person outside the state who is not authorized by the laws of that state.

2) The licensee may sell or transfer stripped stalks, fiber, and nonviable seed to the general public provided the product's THC level is less than 0.3%.

R68-24-10. Renewal.

1) A licensee shall resubmit all documents required in R68-24-3, with updated information, before December 31st of the current year.

2) The department may deny a renewal for an incomplete application.

3) The department may deny renewal for any licensee who has violated any portion of this rule or state law.

R68-24-11. Destruction of Industrial Hemp Material.

1) The licensee shall be responsible for the destruction any plant material which tests greater than 0.3% THC by dry weight.

2) The licensee shall work with the department on an approved plan for the destruction of the plant material.

3) The department may destroy the plant material at cost to the licensee.

4) The department may inspect the growing area to verify the destruction of all plant material.

R68-24-12. Violations.

1) A licensee shall not grow industrial hemp that tests greater than 0.3% THC on a dry weight basis.

2) A licensee shall not sell or transfer material that tests greater than 0.3% THC on a dry weight basis.

3) It is a violation of the grower license to grow or store industrial hemp or industrial hemp material on a site not approved by the department as part of the license.

4) A licensee shall not allow unsupervised public access to hemp plots.

5) A licensee shall not deny an official of the department access for sampling or inspection purposes.

6) A licensee shall not violate any portion of this rule or state law.

7) It is a violation of this rule to grow, cultivate, handle, or possess industrial hemp or viable industrial hemp materials without a license from the department.

9) It is a violation to grow industrial hemp material on a site not approved by the department as listed on the license.

10) It is a violation to grow industrial hemp outdoors within 1,000 feet of a school or public recreational area.

KEY: industrial hemp cultivation

Date of Enactment or Last Substantive Amendment: 2018

Authorizing, and Implemented or Interpreted Law: 4-41-103(4)

Agriculture and Food, Plant Industry
R68-25
Industrial Hemp Research Pilot
Program for Processors

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43146

FILED: 08/10/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed rule sets forth the licensing and operational requirements for individuals seeking to process industrial hemp in the state of Utah in accordance with Subsection 4-41-103(4).

SUMMARY OF THE RULE OR CHANGE: This proposed rule sets forth the licensing requirements for individuals interested in industrial hemp. It establishes that a person must be at least 18 years of age to apply for a license and they must submit a criminal history. Additionally, all employees who handle material that is over the 0.3% THC are required to submit a criminal history and be over 18 years of age. This proposed rule places limitations on where industrial hemp and industrial hemp materials can be extracted or processed and restrictions on what material can be sold. It outlines the testing and sampling methods the Department of Agriculture and Food (Department) will use for testing industrial hemp. This proposed rule outlines the necessary recordkeeping requirements.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 4-41-103(4)

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Adds 21 CFR 111, Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements, published by , 04/01/2017
- ◆ Adds 21 CFR 110, Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food, published by , 04/01/2017

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** As this is a new program, the state will have the additional cost of starting up the program and purchasing the needed equipment to effectively run the Industrial Hemp Program. The Department will need to hire two new employees, an office specialist to oversee the application, licensing, and reporting processes and an inspector to inspect the processing facilities and to take samples to the lab. It is estimated that the new employees will cost \$136,000. These employees will need to be receive training which the Department anticipates will cost \$10,000. Testing equipment and standards will be necessary to test the products for THC compliance. Standards and laboratory equipment will run around \$5,000. Sampling equipment and supplies are estimated to cost \$3,000. The total cost of the first year of the program is then estimated to be \$154,000. The second year the Department anticipates that the cost will stay much the same with some slight decreases in inspection supplies, as well as the cost for training, but the Department does anticipate the need to have at least one additional employee. It is likely, depending on the number of growers, that another inspector will be needed to cover both the northern and southern ends of the state. Therefore, the cost of employees would be \$216,000. The training cost would be \$5,000. The cost of laboratory testing standards and maintenance of the laboratory equipment will remain the same at \$5,000. The Department will need to purchase another vehicle and sampling supplies for the new inspector which is estimated at \$31,500. For a total cost of the second year being \$257,500. It may be necessary to hire more inspectors as the program grows in the third year, but the

Department anticipates that the cost for the program will remain similar to the second year in the third year. The cost may decrease if no new inspectors are needed as training will not be necessary nor will new vehicles or supplies. The cost of employees will remain the same at \$216,000 and laboratory costs will remain at \$5,000. Sampling cost of training will be \$0 and there will be minimal sampling equipment which the Department estimates at \$700. The total cost then for year three would be \$221,700. The Department has a Processor Licensing Fee of \$1,000. Each processor must pay the licensing fee before they are issued a license. The Department is unable to estimate the amount this licensing fee will generate for the Department as this is a new and developing industry and there are currently no legal growers of industrial hemp in the state. However, the Department will be generating some revenue from the licensing fees.

◆ **LOCAL GOVERNMENTS:** Local governments may experience an increase in law enforcement costs due to the nature of the crop being grown. Local law enforcement may wish to coordinate more with the Department in making sure the growing sites are licensed with the Department. The Department will be working with them to notify them of all licensed growing areas. However, those are decisions that will need to be left up to local governments to determine and the Department cannot adequately estimate those cost. Additionally, local governments will see an added benefit as these new businesses will have to obtain business licenses from local governments in which their processing facilities are located. As with the cost to local governments, it is impossible for the Department to adequately estimate the benefits to local governments.

◆ **SMALL BUSINESSES:** This rule allows for the growth of a new and innovative industry in the state of Utah. Previously, the growth of industrial hemp was not allowed under both state and federal laws. This would allow for individuals to start a new business. As it has not been allowed, the proposed rule does not place any additional cost to the business aside from the \$1,000 licensing fee assessed by the Department. Because it is a new program, the Department is unable to estimate how many participants there will be in program.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This proposed rule allows for the development of a new industry in the state. It will allow for the production and distribution of new products to the consumers of the state. However, due to the nature of the industry, it is impossible for the Department to estimate the cost or benefits to the consumer.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be a \$1,000 licensing fee assessed for a license. Due to the nature of the business and the previous legal statutes of industrial hemp, there has been no prior legal processing of the plant in the state of Utah. Therefore, the only cost to the affected persons is the licensing fee. All other costs are the costs of engaging in the processing of industrial hemp.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule will open new markets to our agricultural producers and manufacturers previously closed to them. This proposed rule will allow for producers to diversify the products they produce and attempt to enter into a new and emerging market. The licensing fee is necessary for the department to comply with both state and federal law to ensure that all products produced have under the 0.3% THC.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 AGRICULTURE AND FOOD
 PLANT INDUSTRY
 350 N REDWOOD RD
 SALT LAKE CITY, UT 84116-3034
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Melissa Ure by phone at 801-538-4976, or by Internet E-mail at mure@utah.gov
 ♦ Robert Hougaard by phone at 801-538-7187, by FAX at 801-538-7189, or by Internet E-mail at rhougaard@utah.gov
 ♦ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at sericson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2018

AUTHORIZED BY: LuAnn Adams, Commissioner

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$154,000	\$257,700	\$221,700
Local Government	\$0	\$0	\$0
Small Businesses	\$1,000	\$1,000	\$1,000
Non-Small Businesses	\$1,000	\$1,000	\$1,000
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$156,000	\$259,700	\$223,700
Fiscal Benefits			
State Government	\$1,000	\$1,000	\$1,000
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$1,000	\$1,000	\$1,000
Net Fiscal Benefits:	-\$155,000	-\$258,700	-\$222,700

*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 for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

Each processor must pay the licensing fee before they are issued a license. The Department is unable to estimate the amount this licensing fee will generate for the Department as this is a new and developing industry and there are currently no legal growers of industrial hemp in the state. However, the Department will be generating some revenue from the licensing fees. This rule will allow for the growth of a new and innovative industry in the state of Utah. Previously, the growth of industrial hemp was not allowed under both state and federal laws. This would allow for individuals to start a new business. As it has not been allowed, the proposed rule does not place any additional cost to the business aside from the \$1,000 licensing fee assessed by the Department. Because it is a new program, the Department is unable to estimate how many participants there will be in program.

The Commissioner of the Department of Agriculture and Food, LuAnn Adams, has reviewed and approved this fiscal analysis.

R68. Agriculture and Food, Plant Industry.

R68-25. Industrial Hemp Research Pilot Program for Processors.

R68-25-1. Authority and Purpose.

Pursuant to Section 4-41-103(4), this rule establishes the standards, practices, procedures, and requirements for participation in the Utah Industrial Hemp Research Pilot Program for the processing and handling of industrial hemp.

R68-25-2. Definitions.

- 1) "CBD" means cannabidiol.
- 2) "Department" means the Utah Department of Agriculture and Food.
- 3) "Industrial Hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by weight
- 4) "Handle" or "Handling" means possessing, transporting, or storing industrial hemp for any period of time.
- 5) "Processing" means any or all parts of harvesting, extraction, refining, altering, manufacturing, or making industrial hemp into a finished industrial hemp product ready for market.
- 6) "Processor" means a person licensed by the department to engage in processing industrial hemp extracting and manufacturing industrial hemp and hemp products.
- 7) "Manufacturing" means storing, preparing, packaging, or labeling of industrial hemp or hemp products.

8) "THC" means total composite tetrahydrocannabinol, including delta -9- tetrahydrocannabinol and tetrahydrocannabinolic acid.

9) "Third- party laboratory" means a laboratory which has no direct interest in a grower or processor of industrial hemp or industrial hemp products that is capable of performing mandated testing utilizing validated methods.

R68-25-3. Application Requirements.

1) The applicant shall be a minimum of eighteen (18) years old.

2) The applicant is not eligible to receive a license if they have:

a) been convicted of a felony or its equivalent; or

b) been convicted of a drug-related misdemeanor within the last ten (10) years.

3) An applicant seeking an industrial hemp processing license shall submit the following to the department:

a) a complete application form provided by the department;

b) a physical description of the processing facility;

c) a plain review of the building, facilities, and equipment;

d) a photographic aerial map and street address for each building or site where industrial hemp will be processed, handled, or stored;

e) the planned source of industrial hemp material;

f) a statement of the intended end use or disposal for all parts of the industrial hemp plant and hemp material; and

g) a research plan.

4) An applicant shall submit a nationwide criminal history from the FBI completed within three (3) months of their application.

5) The applicant shall submit a fee as approved by the legislature in the fee schedule.

6) The department shall deny any applicant who does not submit all required information.

R68-25-4. Processing Facility Restrictions.

1) A licensee shall not process or store leaf or floral material from industrial hemp in any structure that is used for residential purposes.

2) A licensee shall not process or store industrial hemp within 1,000 feet of a school or a public recreational area.

3) A licensee shall not process or handle industrial hemp or hemp material from any person who is not licensed by the department or from a person outside the state who is not authorized by the laws of that state.

4) A licensee shall not permit a person under the age of eighteen (18) to handle living plants, viable plant parts, viable seeds, leaf material, or floral material.

5) A licensee shall submit a nationwide criminal history from the FBI to the department for each employee with access to hemp material or product which contains over 0.3% THC or has the potential to contain over 0.3% THC within the first month of employment.

R68-25-5. CBD Extraction Methods.

1) In addition to the requirements of R68-25-3, an applicant seeking to engage in the extraction of CBD shall submit to the department a detailed description of the proposed extraction method.

2) The applicant shall describe the proposed process for the removal of all harmful solvents added during the extraction process, if applicable.

3) The applicant shall describe the safety measures proposed to protect the public and employees from dangers associated with extraction methods.

4) The department may deny a license for methods which pose a significant risk to public health and safety.

5) The department shall not allow the use of butane or propane in any extraction method.

R68-25-6. Processing Practices.

1) The department incorporates by reference 21 CFR 111, Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements for a licensee engaged in processing a CBD product intended for human consumption.

2) The department incorporates by reference 21 CFR 110, Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food for a licensee engaged in processing non-CBD products for human or animal consumption.

3) All other licensed processors shall comply with the federal Food Drug and Cosmetic Act, 21 U.S.C. Chapter 9, and all other applicable state laws and regulations relating to product development, product manufacturing, consumer safety, and public health.

R68-25-7. Required Reports.

1) A licensee shall submit a completed Production Report on a form provided by the department by December 31st.

2) A licensee shall submit a report of the results of the research as set forth in the research plan by December 31st.

3) The failure to submit a timely completed form may result in the denial of a renewal license.

R68-25-8. Additional Records.

1) The licensee shall keep records of receipt for all industrial hemp material obtained including:

a) the date of receipt;

b) quantity received; and

c) an identifying lot number created by the licensee;

d) the seller's information including:

i) the seller's department license number;

ii) seller's contact information; and

iii) the address of the facility or growing area from which the industrial hemp material was shipped.

2) The licensee shall keep records for each batch of industrial hemp material processed containing the following information:

a) the date of processing;

b) the lot number of the material;

- _____ c) the amount processed;
- _____ d) the type of processing; and
- _____ e) any lab test conducted on the industrial hemp material or product during the processing.
- _____ 3) The licensee shall keep records of all tests conducted with the identifying lot number
- _____ 4) All records shall be maintained for a minimum of three (3) years.
- _____ 5) All records are subject to review by department officials at the time of inspection or upon request.

R68-25-9. Testing.

- _____ 1) For industrial hemp products that will be used for human consumption or absorption the product shall be tested for the following before being made available for retail:
 - _____ a) cannabinoid profile;
 - _____ b) solvents;
 - _____ c) pesticides;
 - _____ d) microbials; and
 - _____ e) heavy metals.
- _____ 2) The testing shall be completed by a third- party laboratory.
- _____ 3) The department shall conduct random testing of industrial hemp products and materials.
- _____ 4) The sample taken by the department shall be the official sample.

R68-25-10. Inspections and Sampling.

- _____ 1) The department shall have complete and unrestricted access to all industrial hemp plants, seeds, and materials and all land, buildings, and other structures used to process industrial hemp.
- _____ 2) Samples of each industrial hemp product may be randomly taken from the facilities by department officials.
- _____ 3) The department shall review all records kept in accordance with rule requirements.
- _____ 4) The department shall notify a licensee of test results greater than 0.3% THC.
- _____ 5) Any laboratory test with a result greater than 0.3% THC may be considered a violation of the terms of the license and may result in an immediate license revocation.
- _____ 6) Any laboratory test with a result of 1% THC or greater of final product will be turned over to the appropriate law enforcement agency and revocation of the processor license will be immediate.
- _____ 7) The department shall notify the licensee of any solvents, metals, microbials, or pesticides found during testing.
- _____ 8) The presence of deleterious or harmful substances may be considered a violation of the terms of the license and may result in a license revocation.

R68-25-11. Storage of Industrial Hemp and Hemp Material.

- _____ 1) A licensee may store hemp and hemp products provided:
 - _____ a) the licensee notifies the department of the location of the storage facility;
 - _____ b) the licensee informs the department of the type and amount of the product being stored in the storage facility;

- _____ c) the storage facility is outside of the public view; and
- _____ d) the storage facility is secured with physical containment such as walls, fences, locks, and with an alarm system to provide maximum reasonable security.
- _____ 2) A licensee may store hemp product that exceeds the 0.3% THC provided:
 - _____ a) the product is kept in a secure room;
 - _____ b) the product is kept separate from other hemp products;
 - _____ c) access to the product is limited; and
 - _____ d) a record is kept of the amount of product being stored and when it is being moved.
- _____ 3) All storage facilities shall be maintained in accordance with the practice adopted in R68-25-6.
- _____ 4) All storage facilities and records are subject to random inspection by department officials.

R68-25-12. Transportation of Industrial Hemp Material.

- _____ 1) A licensee may move nonviable hemp product without an industrial hemp transportation permit.
- _____ 2) An industrial hemp transportation permit is required for each day and each vehicle used to move industrial hemp or industrial hemp products.
- _____ 3) The licensee shall submit an industrial hemp transportation permit request form provided by the department.
- _____ 4) Requests for an industrial hemp transportation permit shall be submitted to the department at least five (5) business days prior to movement.
- _____ 5) An industrial hemp transportation permit authorizes the transportation of industrial hemp materials only within the borders of the state.
- _____ 6) The department may deny any application for an industrial hemp transportation permit that is not completed in accordance with this rule.
- _____ 7) A licensee extracting CBD shall not transport any product until the department has been notified of the THC test results for the product being transported.

R68-25-13. Restriction on the Sale and Transfer of Industrial Hemp Material.

- _____ 1) A licensee shall not sell or transfer living plants, viable plants, viable seed, leaf material, or floral material to any person not licensed by the department.
- _____ 2) A licensee shall not sell or transfer living plants, viable seed, leaf material, or floral material to any person outside the state who is not authorized by the laws of that state.
- _____ 3) The licensee may sell stripped stalks, fiber, and nonviable seed to the general public provided the product's THC level is less than 0.3%.

R68-25-14. Renewal.

- _____ 1) A licensee shall resubmit all documents required in R68-25-3, with updated information, before December 31st of the current year.
- _____ 2) The department may deny a renewal for an incomplete application.
- _____ 3) The department may deny renewal for any licensee who has violated any portion of this rule or state law.

R68-25-15. Violation.

1) It is a violation to process industrial hemp or industrial hemp material on a site not approved by the department as listed on the license or within 1,000 feet of a school or public recreational area.

2) It is a violation to process industrial hemp or industrial hemp material from a source that is not approved by the department.

3) A licensee shall not allow unsupervised public access to hemp processing facilities.

4) It is a violation to employ a person under the age of eighteen (18) in the processing or handling of industrial hemp or its products.

5) It is a violation to sell a product to the general public in violation of this section or state laws governing the final product.

6) It is a violation to add CBD to a food product.

7) It is a violation to fail to keep records required by this section.

8) It is a violation for a licensee to allow an employee that has been convicted of a felony or its equivalent access to hemp material or product which contains over 0.3% THC or has the potential to contain over 0.3% THC.

9) It is a violation for a licensee to allow an employee that has been convicted of a drug-related misdemeanor within the last ten (10) years access to hemp material or product which contains over 0.3% THC or has the potential to contain over 0.3% THC.

KEY: cannabidiol, hemp products, hemp extraction, hemp oil
Date of Enactment or Last Substantive Amendment: 2018
Authorizing, and Implemented or Interpreted Law: 4-41-103(4)

Agriculture and Food, Plant Industry
R68-26
 Industrial Hemp Product Registration
 and Labeling

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43147

FILED: 08/10/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed rule sets forth registration and labeling requirements for individuals seeking to sell industrial hemp in the state of Utah in accordance with Subsections 4-41-103(4) and 4-41-403(1).

SUMMARY OF THE RULE OR CHANGE: This proposed rule requires all industrial hemp products distributed in the state to be registered with the Department of Agriculture and Food (Department). It establishes the labeling requirements for the various products being distributed. It sets up quality assurance procedures the Department will follow to test the products for label accuracy and to ensure that products

intended for ingestion or absorption by humans or animals are free of contaminants.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 4-41-103(4) and Subsection 4-41-402(2) and Subsection 4-41-403(1)

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Adds 21 CFR 740, Cosmetic Product Warnings Statements, published by Government Printing Office, 04/01/2017
- ◆ Adds 21 CFR 701, Cosmetic Labeling, published by Government Printing Office, 04/01/2018
- ◆ Adds 21 CFR 101, Food Labeling, published by Government Printing Office, 04/01/2017

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** As this is a new program, the state will have the additional cost of starting up the program and purchasing the needed equipment to effectively run the Industrial Hemp Program. The Department will need to hire two new employees, an office specialist to oversee the registration process, as well as conduct the initial label review, and an inspector to inspect the store for product and to ensure that products being distributed are registered and take random samples to the lab for label verification. It is estimated that the new employees will cost \$136,000. These employees will need to receive training which the Department anticipates will cost \$10,000. Testing equipment and standards will be necessary to test the products for THC compliance. Additional tests will need to be done to ensure that the products are free of harmful contaminants. Standards and laboratory equipment will run around \$5,000. Sampling equipment and supplies are estimated to cost \$3,000. The total cost of the first year of the program is then estimated to be \$154,000. The second year the Department anticipates that the cost will stay much the same with some slight decreases in inspection supplies, as well as the cost for training, but the Department does anticipate the need to have at least one additional employee. It is likely, depending on the number of growers, that another inspector will be needed to cover both the northern and southern ends of the state. Therefore, the cost of employees would be \$216,000. The training cost would be \$5,000. The cost of laboratory testing standards and maintenance of the laboratory equipment will remain the same at \$5,000. The Department will need to purchase another vehicle and sampling supplies for the new inspector which is estimated to be \$31,500. For a total cost of the second year being \$257,500. It may be necessary to hire more inspectors as the program grows in the third year, but the Department anticipates that the cost for the program will remain similar to the second year in the third year. The cost may decrease if no new inspectors are needed as training will not be necessary nor will new vehicles or supplies. The cost of employees will remain the same at \$216,000 and laboratory cost remain at \$5,000. Sampling cost of training will be \$0 and there will be minimal sampling equipment which the Department estimates at \$700. The total cost then for year three would be \$221,700. The

Department has a grower license fee of \$500. Each product will have to have a registration fee attached to the registration. The amount of the fee is determined by the type of product being registered. A product containing hemp oil, extract, or CBD will pay a \$200 registration fee. A seed product or product containing seed will pay a \$100 registration fee. The fee must be paid before the product is considered registered in the state. The Department is unable to estimate the amount this registration fee will generate for the Department as this is a new and developing industry and it is not known how many products containing hemp will be brought into the state. However, the Department will be generating some revenue from the licensing fees.

◆ LOCAL GOVERNMENTS: There are no anticipated costs or benefits to local governments as this rule neither requires action from nor provides benefits to local governments.

◆ SMALL BUSINESSES: This rule allows for the legal sale of hemp products in the state. Previously, some of these hemp products were not legally available for purchase because of state laws. While the purchase of hemp clothing and some seed material was allowed federally, aside for the registration fee of \$100 to \$200, there are no additional requirements placed on these businesses by this rule that previously were not required by either state or federal law. Due to the nature of the products being distributed, the Department is unable to estimate how many participants there will be in program.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This proposed rule allows for the legal distribution of hemp products in the state. This rule will allow for those who wish to consume CBD oil to purchase products in the state with the added benefits of knowing what the product contains and that it is free of contaminants. However, due to the nature of the industry, it is impossible for the Department to estimate the cost or benefits to the consumer.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be \$100 to \$200 registration fee depending on the type of product being registered. A product containing hemp oil, extract, or CBD will pay a \$200 registration fee. A seed product or product containing seed will pay a \$100 registration fee. The fee must be paid before the product is considered registered in the state. Fiber products must register, but there is no fee attached to that registration.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule will open new markets to our agricultural producers and manufacturers previously closed to them. This proposed rule will allow for producers to diversify the products they produce and attempt to enter into a new and emerging market. This rule will allow for the legal sale of hemp products in the state. Previously, some of these hemp products were not legally available for purchase because of state laws. While the purchase of hemp clothing and some seed material was allowed federally, aside for the registration fee of \$100 to \$200, there are no additional requirements placed on these businesses by this rule that previously were not required by either state or federal law.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 AGRICULTURE AND FOOD
 PLANT INDUSTRY
 350 N REDWOOD RD
 SALT LAKE CITY, UT 84116-3034
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Bracken Davis by phone at 801-538-7188, or by Internet E-mail at brackendavis@utah.gov
 ◆ Melissa Ure by phone at 801-538-4976, or by Internet E-mail at mure@utah.gov
 ◆ Robert Hougaard by phone at 801-538-7187, by FAX at 801-538-7189, or by Internet E-mail at rhougaard@utah.gov
 ◆ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at sericson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2018

AUTHORIZED BY: LuAnn Adams, Commissioner

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$154,000	\$257,700	\$221,700
Local Government	\$0	\$0	\$0
Small Businesses	\$200	\$200	\$200
Non-Small Businesses	\$200	\$200	\$200
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$154,400	\$258,100	\$222,100
Fiscal Benefits			
State Government	\$400	\$400	\$400
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$400	\$400	\$400
Net Fiscal Benefits:	-\$154,000	-\$257,700	-\$221,700

*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 for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

This rule allows for the legal sale of hemp products in the state. Previously, some of these hemp products were not legally available for purchase because of state laws. While the purchase of hemp clothing and some seed material as allowed federally, aside for the registration fee of \$100 to \$200, there are no additional requirements placed on these businesses by this rule that previously were not required by either state or federal law. Due to the nature of the products being distributed, the Department is unable to estimate how many products will be registered nor the number of business that will be affected by the rule.

The Commissioner of the Department of Agriculture and Food, LuAnn Adams, has reviewed and approved this fiscal analysis.

R68. Agriculture and Food, Plant Industry.

R68-26. Industrial Hemp Product Registration and Labeling.

R68-26-1. Authority and Purpose.

1) Pursuant to Section 4-41-103(4) and 4-41-403(1), this rule establishes the requirements for labeling and registration of products made from and containing industrial hemp.

R68-26-2. Definitions.

- 1) "CBD" means cannabidiol.
- 2) "Certificate of Analysis" means a certificate from a third-party laboratory describing the results of the laboratory's testing of a sample.
- 3) "Department" means the Utah Department of Agriculture and Food
- 4) "Industrial Hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by weight.
- 5) "Industrial hemp product" means products derived from, or made by processing industrial hemp plants or plant parts.
- 6) "Label" means the display of all written, printed, or graphic matter upon the immediate container or statement accompanying an industrial hemp product.
- 7) "Manufacturer" means a person who makes any industrial hemp products.
- 8) "Person" means an individual, partnership, association, firm, trust, limited liability company, or corporation or any employees of such.
- 9) "THC" means total composite tetrahydrocannabinol, including delta -9- tetrahydrocannabinol and tetrahydrocannabinolic acid.
- 10) "Third- party laboratory" means a laboratory which has no direct interest in a grower or processor of industrial hemp or industrial hemp products that is capable of performing mandated testing utilizing validated methods.

R68-26-3. Product Registration.

1) All industrial hemp products distributed or available for distribution in Utah shall be officially registered annually with the department.

2) Application for registration shall be made to the department on form provided by the department including the following information:

- a) the name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicants;
- b) the name of the product;
- c) the type and use of the product; and
- d) a complete copy of the label which will appear on the product.

3) If the industrial hemp product being registered contains CBD, the application shall include a certificate of analysis from a third-party laboratory for the product in compliance with R68-26-4.

4) A registration fee per product, as set forth in the fee schedule approved by the legislature, shall be paid to the department with the submission of the application.

5) The department may deny registration for incomplete applications.

6) The department may exempt an industrial hemp product that is determined to be adequately regulated by a federal agency.

7) A new registration is required for any of the following:

- a) changes in the industrial hemp product ingredients;
 - b) changes to the directions for use; and
 - c) a change of name for the product.
- 8) Other changes shall not require a new registration but the registrant shall submit copies of all label changes to the department as soon as they are effective.

9) The person registering the industrial hemp product is responsible for the accuracy and completeness of all information submitted.

10) A registration is renewable for up to a one year period with an annual renewal fee per product which shall be paid on or before June 30th of each year.

11) An industrial hemp product that has been discontinued shall continue to be registered in the state until the product is no longer available for distribution.

12) A late fee shall be assessed for a renewal of an industrial hemp product registration submitted after June 30th and shall be paid before the registration renewal is issued.

R68-26-4. Certificate of Analysis.

1) The certificate of analysis for industrial hemp products containing CBD shall include the following test results:

- a) the cannabinoid profile by percentage of dry weight;
- b) solvents;
- c) pesticides;
- d) microbials; and
- e) heavy metals.

2) The certificate of analysis shall include the following information:

- a) the batch identification number;
- b) the date received;
- c) the date of completion; and
- d) the method of analysis for each test conducted.

R68-26-5. Label Requirements.

1) Industrial hemp products containing CBD produced for human consumption shall be labeled in accordance with 21 CFR 101.1, 21 CFR 101.2, 21 CFR 101.3, 21 CFR 101.4, 21 CFR 101.5, 21 CFR 101.9(j)(13), 21 CFR 101.9(j)(17), 21 CFR 101.15, and 21 CFR 101.36.

2) Industrial hemp products produced for absorption by humans shall be labeled in accordance with 21 CFR 701, Cosmetic Labeling and 21 CFR 740, Cosmetic Product Warning Statements.

3) In addition to the requirements of R68-26-5(1) and (2), an industrial hemp product containing CBD shall have on the label a scannable bar code, QR code, or web address linked to a document containing the following information:

a) the batch identification number;

b) the product name;

c) the batch date;

d) an expiration date;

e) the batch size;

f) the total quantity produced; and

g) a downloadable link for a certificate of analysis for the batch identified.

4) Industrial hemp products shall not contain medical claims on the label.

5) Industrial hemp products which do not contain CBD intended for human consumption shall be labeled in accordance with 21 CFR 101, Food Labeling.

6) Industrial hemp products which do not contain CBD intended for human absorption shall be labeled in accordance with 21 CFR 701, Cosmetic Labeling and 21 CFR 740, Cosmetic Product Warnings Statements.

7) Industrial hemp products meant for animal consumption shall be labeled and comply with all applicable federal laws and regulations and all other applicable state laws and regulations.

8) Industrial hemp seed products intended for cultivation shall be labeled in accordance with Utah Seed Act.

9) All industrial hemp products shall comply with the federal Food Drug and Cosmetic Act, 21 U.S.C. Chapter 9 and other applicable federal laws and regulations and all applicable state laws and regulations relating to the labeling of food, cosmetics, and fiber.

R68-26-6. Inspection and Testing.

1) The department shall conduct randomized inspection of industrial hemp products distributed or available for distribution in the state for compliance with this rule.

2) The department shall periodically sample, analyze, and test industrial hemp products distributed within the state for compliance with registration and labeling requirements and the certificate of analysis, if applicable.

3) The department may conduct inspection of industrial hemp products distributed or available for distribution for any reason the department deems necessary.

4) The sample taken by the department shall be the official sample.

R68-26-7. Retailer Responsibilities.

1) A retailer shall:

a) ensure that any industrial hemp product is labeled correctly; and

b) ensure that all industrial hemp products sold are properly registered with the department.

2) Retailers shall provide the identity of the manufacturer of industrial hemp products sold upon request of the department.

3) A retailer may register the product in lieu of the manufacturer if the product is not registered.

R68-26-8. Violation.

1) Each improperly labeled industrial hemp product shall be a separate violation of this rule.

2) Industrial hemp products not meeting the label requirements shall be deemed to be misbranded.

3) Industrial hemp products shall be considered falsely advertised if it does not meet the labeling requirements of this rule.

4) It is a violation to distribute or market and Industrial hemp products that is not registered with the department.

5) It is a violation to distribute or market an industrial hemp product that contains greater than 0.3% THC.

6) It is a violation to distribute or market an industrial hemp product containing CBD which is not in a medical dosage form.

KEY: CBD labeling, CBD products, hemp product registration

Date of Enactment or Last Substantive Amendment: 2018

Authorizing, and Implemented or Interpreted Law: 4-41-403(1); 4-41-402(2); 4-41-103(4)

Commerce, Administration
R151-4
 Department of Commerce
 Administrative Procedures Act Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43148

FILED: 08/13/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change simplifies procedures for the filing and service of pleadings, updates the disclosure required for an expert witness' written report consistent with the Utah Rules of Civil Procedure (URCP) Rule 26(a)(4)(B), updates the requirement for electronic testimony in formal hearings consistent with the URCP, clarifies that the 30-day deadline for filing a request for agency review is a jurisdictional deadline that may be extended only for good cause, and updates references to certain provisions relating to decisions from the Division of Corporations and Commercial Code.

SUMMARY OF THE RULE OR CHANGE: Section R151-4-109 is amended to clearly state that the elements in Subsection R151-4-109(1) do not apply to a request for agency review. Changes are made to Section R151-4-401 to

clarify and simplify the administrative filing process. This rule is amended to: 1) remove the requirement to file pleadings with both the agency and any administrative law judge (ALJ), instead requiring only a filing with the agency; 2) treat filings by fax and email the same way, and 3) delete previous subpart (D) that appears redundant. With the removal of the requirement to file with any ALJ. Section R151-4-402 is amended to clarify that service must also be made on any ALJ assigned to the case (since the requirement to file a document with any ALJ has been deleted). For clarity, Section R151-4-504 spells out the expert requirement rather than making a reference to URCP 26. Section R151-4-707 is updated to essentially mirror the URCP in stating that for good cause and with appropriate safeguards, the presiding officer has discretion to permit electronic testimony by contemporaneous transmission from a different location in formal proceedings. This rule with respect to informal proceedings is amended to clarify that electronic testimony is acceptable (removing the word "generally") and is amended to reflect the ability of any ALJ to implement appropriate safeguards on electronic testimony. Section R151-4-901 corrects outdated references and note that the 30-day deadline for filing an agency review request may be extended only for good cause. Technical changes are made to Section R151-4-903 to make the language consistent with Section R151-4-907.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 13-1-6

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** These proposed amendments clarify, simplify, and update procedures for adjudicative proceedings conducted under the Department of Commerce (Department) Administrative Procedures Act. There may be some monetary savings to the Department resulting from potentially reduced agency staff time and resources that will need to be dedicated to these adjudicative proceedings. However, the full impact of any savings is inestimable, both because the savings will occur only when and as cases are filed, and because the amount of any savings will vary from case-to-case depending on the parties involved and the nature and complexity of the proceedings. No other fiscal impact to the state is expected, beyond a minimal cost to the Department of approximately \$75 to print and distribute this rule once these proposed amendments are made effective.

◆ **LOCAL GOVERNMENTS:** Because local governments are not typically involved in the procedures being updated by these amendments, these proposed amendments are not expected to have any impact on local governments' revenues or expenditures.

◆ **SMALL BUSINESSES:** Because these proposed amendments clarify, simplify, and update procedures for adjudicative proceedings conducted under the Department Administrative Procedures Act, there may be some monetary savings to small businesses who become involved in these agency proceedings. In particular, the clarified and simplified processes for filing and service, and the increased ability to provide electronic testimony by contemporaneous

transmission, could result in a reduction of the costs to small businesses associated with their participation in these proceedings. For a complete listing of NAICS Codes of the types of small businesses who might become involved in Department adjudicative proceedings, please contact the Department. However, some electronic testimony requests are already granted before hearings in the Department. Even assuming that the amount of electronic testimony increases, the full impact to these small businesses cannot be estimated because these estimated savings will occur only when small businesses actually become involved in adjudicative proceedings and are able to take advantage of these new clarified and simplified processes. It cannot be estimated how much any potentially involved small businesses will save because the amount of any savings will vary widely from case-to-case depending on the location and nature of the adjudicative proceedings in which they are involved. For example, savings to small businesses from being able to provide electronic testimony will be based on direct savings in cost (transportation, lodging, food), and indirect savings (reduced time away from work), with the aggregate savings depending on how many participants (employees, managers, members, officers, attorneys) would have otherwise been required to appear in person. This also assumes that the request would not have already been accepted under the old rule. These savings may also be offset by the cost of court reporters and technology used to facilitate an electronic appearance, for which there is no data.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because these proposed amendments clarify, simplify, and update procedures for adjudicative proceedings conducted under the Department Administrative Procedures Act, there may be some monetary savings to persons other than small businesses, businesses, or local government entities who become involved in these agency proceedings. In particular, the clarified and simplified processes for filing and service, and the increased ability to provide electronic testimony by contemporaneous transmission, could result in a reduction of the costs to individuals and other persons associated with their participation in these proceedings. However, some electronic testimony requests are already granted before hearings in the Department. Even assuming that the amount of electronic testimony increases, the full impact to these persons cannot be estimated because these estimated savings will occur only when persons actually become involved in adjudicative proceedings and are able to take advantage of these new clarified and simplified processes. It cannot be estimated how much any potentially involved person will save because the amount of any savings will vary widely from case-to-case depending on the location and nature of the adjudicative proceedings in which they are involved. For example, savings to persons from being able to provide electronic testimony will be based on direct savings in cost (transportation, lodging, food), and indirect savings (reduced time away from work), with the aggregate savings depending on how many participants would have otherwise been required to appear in person. This also assumes that the request would not have already been accepted under the

old rule. These savings may also be offset by the cost of court reporters and technology used to facilitate an electronic appearance, for which there is no data.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These proposed amendments are not expected to impose any compliance costs for affected persons because no additional requirements for affected persons are established by this rule filing beyond those already in place.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This filing updates, simplifies, and clarifies the current administrative procedure rule. No fiscal impact to businesses is anticipated.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

COMMERCE
ADMINISTRATION
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Masuda Medcalf by phone at 801-530-7663, by FAX at 801-530-6446, or by Internet E-mail at mmedcalf@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 10/18/2018

AUTHORIZED BY: Francine Giani, Executive Director

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

*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 for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

Similar to small businesses, these proposed amendments may result in some monetary savings to non-small businesses who become involved in Department adjudicative proceedings, because the amendments clarify, simplify, and update procedures conducted under the Department of Commerce Administrative Procedures Act. In particular, the clarified and simplified processes for filing and service, and increased ability to provide electronic testimony by contemporaneous transmission, could substantially reduce the costs to non-small businesses participating in these proceedings. (For a complete listing of NAICS Codes of the types of non-small businesses who might become involved in Department adjudicative proceedings, please contact the Department.) However, the full impact to non-small businesses cannot be estimated because these estimated savings will occur only when these non-small businesses are able to take advantage of these new clarified and simplified processes. The data necessary to determine how many of the parties who will appear before the Department will be non-small businesses is unavailable, both because those numbers are not tracked, and because these parties typically appear only in cases of unforeseeable violations of law. Further, it cannot be estimated how much any non-small businesses involved in such proceedings will save, because the amount of any savings will vary substantially from case to case depending on the location and nature of the parties involved and the type and complexity of the adjudicative proceedings in which they are involved.

The head of the Department of Commerce, Francine A. Giani, has reviewed and approved this fiscal analysis.

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

**R151. Commerce, Administration.
R151-4. Department of Commerce Administrative Procedures Act Rule.**

R151-4-109. Extension of Time and Continuance of Hearing.

(1) When ruling on a motion or request for extension of time or continuance of a hearing, the presiding officer shall consider:

- (a) whether there is good cause for granting the extension or continuance;
- (b) the number of extensions or continuances the requesting party has already received;
- (c) whether the extension or continuance will work a significant hardship upon the other party;
- (d) whether the extension or continuance will be prejudicial to the health, safety or welfare of the public; and
- (e) whether the other party objects to the extension or continuance.

(2)(a) Except as provided in R151-4-109(2)(b), an extension of a time period or a continuance of a hearing may not result in the

hearing being concluded more than 240 calendar days after the day on which:

(i) the notice of agency action was issued; or
(ii) the initial decision with respect to a request for agency action was issued.

(b) Notwithstanding R151-4-109(2)(a), an extension of a time period or a continuance may exceed the time restriction in R151-4-109(2)(a) only if:

(i)(A) a party provides an affidavit or certificate signed by a licensed physician verifying that an illness of the party, the party's counsel, or a necessary witness precludes the presence of the party, the party's counsel, or a necessary witness at the hearing;

(B) counsel for a party withdraws shortly before the final hearing, unless the presiding officer finds the withdrawal was for the purpose of delaying the hearing, in which case the hearing will go forward with or without counsel;

(C) a parallel criminal proceeding or investigation exists based on facts at issue in the administrative proceeding, in which case the continuance must address the expiration of the continuance upon the conclusion of the criminal proceeding; or

(D) the board or commission designated to act as the fact-finder at hearing is unavailable to meet on a date that:

(I) allows the parties a reasonable period of time for discovery, motion practice, or hearing preparation; and

(II) falls within the 240-day deadline for resolution; and

(ii) the presiding officer finds that injustice would result from failing to grant the extension or continuance.

(c)(i) If the presiding officer considers that extenuating circumstances not contemplated in R151-4-109(2)(b) justify a continuance beyond the 240-day deadline, the presiding officer shall file a written request for continuance with the Executive Director.

(ii) A party may not directly petition the Executive Director for a continuance.

(iii) The Executive Director's decision on the presiding officer's request for continuance shall be issued on an interlocutory basis, not subject to a request for reconsideration or judicial review until after a final order on the merits is issued.

(d) The failure to conclude a hearing within the required time period is not a basis for dismissal.

(3) The presiding officer may not grant an extension of time or continuance that is not authorized by statute or rule.

(4) The factors in Subsection (1) do not apply to a request for agency review made pursuant to Subsection R151-4-901(1)(a). A request for an extension to file a request for agency review is governed by Subsection R151-4-901(1)(c).

R151-4-401. Filing.

(1)(a) Pleadings shall be filed with[:

~~(i)] the department or division in which the adjudicative proceeding is being conducted, which maintains the official file[; and~~

~~(ii) any administrative law judge who is conducting all or part of the adjudicative proceeding].~~

(b) The filing of discovery documents is governed by R151-4-512.

(2)(a) A filing may be accomplished by:

(i) hand delivery of a paper copy, pursuant to Subsection (2)(b)(i);

(ii) first class or certified mail, postage pre-paid, of a paper copy, pursuant to Subsection (2)(b)(i);

(iii) fax, pursuant to Subsection (2)(b)(ii); or

(iv) attachment to electronic mail, pursuant to Subsection (2)(b)(iii).

(b)(i) A filing by hand delivery or first class or certified mail is complete when it is received and date stamped by the department or division, as applicable[; or the administrative law judge who is assigned to act as the presiding officer in the case. If delivery to the department or division occurs on a different day than does delivery to the administrative law judge, the earlier date stamp shall constitute the date of filing].

(ii) A filing by fax or electronic mail is complete upon transmission, if:

(A) compliant with Subsection (1);

(B) completed and received during the department's operating hours, 8 a.m. to 5 p.m. Mountain Time (Standard or Daylight Savings, as applicable), on days other than Saturdays, Sundays, or state or federal holidays; [and]

(C) the recipient receives all pages of the document transmitted[-]; and,

(D) the party filing the document:

~~[(iii) A filing by attachment to electronic mail is complete upon transmission if:~~

~~(A) the requirements of Subsection (2)(b)(ii) are met; and~~

~~(B) the party filing the document:~~

~~[(I) also mails the document to the department or division [and the administrative law judge] the same day, as evidenced by a postmark; or~~

~~(II) prior to any applicable filing deadline, is expressly excused by the presiding officer from mailing the document.~~

~~[(d)] The burden is on the party filing the document to ensure that a filing is properly completed.~~

~~[(e) All filings made on agency review shall be provided in paper copy.]~~

R151-4-402. Service.

(1)(a) Pleadings filed by the parties shall be concurrently served on all parties and any administrative law judge who is assigned in the case. [and d] Documents issued by the presiding officer shall be concurrently served on all parties.

(b) The party who files a pleading is responsible for service of the pleading.

(c) The presiding officer who issues a document is responsible for service of the document.

(2)(a) Service may be made:

(i) on a person upon whom a summons may be served pursuant to the Utah Rules of Civil Procedure; and

(ii) personally or on the agent of the person being served.

(b) If a party is represented by an attorney, service shall be made on the attorney.

(3)(a) Service may be accomplished by hand delivery of a paper copy, by mail of a paper copy to the last known address of the intended recipient, or by attachment to electronic mail.

(b) Service by hand delivery is complete upon delivery to:

(i) the person who is required to be served;

(ii) any individual who is employed by, and physically present at, the business office of the person who is required to be served; or

(iii) a mailbox or dropbox that is:

(A) assigned to the person who is required to be served; and

- (B) physically located at the person's place of business.
- (c) Service by mail is complete upon mailing, as evidenced by a postmark.
- (d) Service by attachment to electronic mail is complete on transmission if transmission is completed during normal business hours, 8 a.m. to 5 p.m. on days other than Saturdays, Sundays, and state and federal holidays, at the place receiving the service; otherwise, service is complete on the next business day.
- (4) There shall appear on all documents required to be served a certificate of service in substantially the following form:

TABLE II

CERTIFICATE OF SERVICE

I certify that I have this day served the foregoing document on the parties of record in this proceeding set forth below (by delivering a copy thereof in person) (by mailing a copy thereof, properly addressed by first class mail with postage prepaid, to) (by electronic means to):

(Name(s) of parties of record)
(Address(es))

Dated this (day) day of (month), (year).

(Signature)
(Name and Title)

R151-4-504. Disclosures Otherwise Required.

- (1)(a) A party shall:
 - (i) disclose in writing the name, address and telephone number of any person who might be called as an expert witness at the hearing; and
 - (ii) provide a written report signed by the expert that contains a complete statement of all opinions the expert will offer at the hearing and the basis and reasons for them~~[pursuant to the requirements for disclosure of expert testimony of Rule 26 of the Utah Rules of Civil Procedure].~~ Such an expert may not testify in a party's case-in-chief concerning any matter not fairly disclosed in the report. The party offering the expert shall pay the costs for the report.
- (b) Unless otherwise stipulated in writing by the parties or ordered in writing by the presiding officer, the disclosures required by R151-4-504(1) shall be made:
 - (i) within 30 days after the deadline for completion of discovery; or
 - (ii) if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party under R151-4-504(1)(a), within 60 days after the disclosure made by the other party.
- (c) If either party fails to file its disclosure within the time frames in R151-4-504(1), the presiding officer:
 - (i) shall exclude the expert testimony from the proceeding; and
 - (ii) may not continue the hearing to allow additional time for the disclosures.
- (2)(a) In addition to the disclosures required by R151-4-504(1), a party shall disclose information regarding evidence the party may present at hearing other than solely for impeachment purposes pursuant to the pretrial disclosures provisions of Rule 26 of the Utah Rules of Civil Procedure.
 - (b)(i) The disclosures required by R151-4-504(2) shall be made at least 45 days before the hearing.

- (ii) Within 14 days after service of the disclosures a party may serve and file an objection to the:
 - (A) use of a deposition designated by another party; and
 - (B) admissibility of materials identified under R151-4-504(2)(a).
- (iii) An objection not timely made is waived.

R151-4-707. Electronic Testimony.

- (1) As used in this section (R151-4-707), electronic testimony ~~[includes]~~means testimony by contemporaneous transmission from a different location including by telephone, or by other audio or video conferencing technology.
- (2) For good cause and with appropriate safeguards, the presiding officer may permit electronic testimony in hearings in administrative proceedings.~~[(a) Electronic testimony is permissible in a formal proceeding only:

 - (i) on the consent of all parties; or
 - (ii) if warranted by exigent circumstances.
 (b) Expenses to produce in-person testimony do not constitute an exigent circumstance in a formal proceeding. (c) E]~~
 - (3) With appropriate safeguards, electronic testimony [generally] is permissible in an informal proceeding on the request of a party.
 - ~~[(3)(a) When electronic testimony is to be presented, the presiding officer shall require identification of the witness.~~
 - ~~(b) The presiding officer shall provide safeguards to:~~
 - ~~(ii) assure the witness does not refer to documents improperly; and~~
 - ~~(iii) reduce the possibility the witness may be coached or influenced during the testimony.]~~

R151-4-901. Availability of Agency Review and Reconsideration.

- (1)(a) Except as otherwise provided in Subsection 63G-4-209(3)(c), an aggrieved party may obtain agency review of a final order by filing a request with the executive director within 30 calendar days after the issuance of the order.
 - (b) This 30-day deadline is jurisdictional. The three-day mailing rule in Section 151-4-107(3) does not apply and does not extend the jurisdictional deadline.
 - (c) Pursuant to Subsection 63G-4-102(9), the Executive Director may extend the deadline only for good cause shown. For purposes of this section R151-4-901, good cause to justify an extension means special circumstances beyond the control of the person requesting agency review that prevents a timely filing of the request.
- (2)(a) Agency review is not available for an order or decision entered by:
 - (i) the Utah Motor Vehicle Franchise Advisory Board; or
 - (ii) the Utah Powersport Vehicle Franchise Advisory Board.
- (b) Agency review is not available for an order or decision entered by the Division of Occupational and Professional Licensing for:
 - (i) Prelitigation proceedings under Title 78B, Chapter 3, the Utah Health Care Malpractice Act;
 - (ii) a request for modification of a disciplinary order; or
 - (iii) a request under Section 58-1-404(4) for entry into the Diversion Program.
- (c) Agency review is not available for an order or decision entered by the Division of Corporations and Commercial Code for:

(i) refusal to file a document under the Utah Revised Business Corporations Act pursuant to Section 16-10a-126;

(ii) revocation of a foreign corporation's authority to transact business pursuant to Section 16-10a-1532;

(iii) refusal to file a document under the Utah Revised Limited Liability Company Act pursuant to Section ~~48-3a-209~~[~~48-2e-244~~]; or

(iv) ~~denial of reinstatement under the Uniform Limited Cooperative Association Act~~[~~revocation of a foreign limited liability company's authority to transact business~~] pursuant to Section ~~16-16-1213~~[~~48-2e-1614~~].

(d)(i) A party may request agency reconsideration pursuant to Section 63G-4-302 for an order or decision exempt from agency review under R151-4-901(2)(a), (2)(b)(ii), and (2)(c).

(ii) Pursuant to Subsections 58-1-404(4)(d) and 78B-3-416(1)(c), agency reconsideration is not available for an order or decision exempt from agency review under R151-4-901(2)(b)(i) and (2)(b)(iii).

R151-4-903. Stay Pending Agency Review.

(1)[~~(a)~~] With a timely filing of a request for agency review ~~of an order~~, the party seeking review may file a motion for a stay of the order pending the completion of agency review. [~~request that the effective date of the order subject to review be stayed pending the completion of review.~~]

(b) If a motion to stay is not timely ~~filed~~[~~requested~~] and subsequently granted, the order subject to review shall remain[~~take~~] in effect according to its terms.

(2)(a) The division that issued the order subject to review may oppose a motion[~~request~~] for a stay in writing within ten days from the date the stay is requested.

(b) Failure to oppose a timely request for a stay shall result in an order granting the stay unless the department determines that a stay would not be in the best interest of the public.

(c) If a division opposes a motion for a stay, the department may permit a final response by the party requesting the stay.

(d) The department may enter an interim order granting a stay pending a decision on the motion for a stay.

(3)(a) In determining whether to grant a request for a stay, the department shall review the division's findings of fact, conclusions of law and order to determine whether granting a stay would, or might reasonably be expected to, pose a significant threat to the public health, safety and welfare.

(b) The department may issue:

(i) an order granting the motion for a stay;

(ii) a conditional stay imposing terms, conditions or restrictions on a party pending agency review;

(iii) a partial stay; or

(iv) an order denying the motion for a stay.

KEY: administrative procedures, adjudicative proceedings, government hearings

Date of Enactment or Last Substantive Amendment: [~~December 28, 2015~~]2018

Notice of Continuation: March 15, 2016

Authorizing, and Implemented or Interpreted Law: 13-1-6; 63G-4-102(6)

Commerce, Occupational and Professional Licensing **R156-47b-102** Definitions

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 43150

FILED: 08/14/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division of Occupational and Professional Licensing (Division) and the Massage Therapy Board have reviewed and are proposing the following amendment to this rule. Pursuant to Subsection 58-47b-304(1)(m), an individual may engage in the defined practice of massage therapy without being licensed under Title 58, Chapter 47b, Massage Therapy Practice Act, if the individual is certified by or through and in good standing with an industry organization recognized by the Division and meets certain other requirements. The Division lists the industry organizations it recognizes in Subsection R156-47b-102(8). This filing will add the entity "Foot Zone Center LLC" to the list of recognized industry organizations.

SUMMARY OF THE RULE OR CHANGE: This filing will amend Subsection R156-47b-102(8) to add the entity "Foot Zone Center LLC" to the list of industry organizations recognized by the Division.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-47b-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** No state agencies will be directly or indirectly affected by this amendment because the constrained parties consist only of Foot Zone Center LLC and any individuals it will certify who also meet the other requirements for exemption under Subsection 58-47b-304(1)(m). Additionally, there are no state government entities acting as businesses that will be impacted. As a result, this rule is not expected to impact the state beyond a minimal cost to the Division of approximately \$75 to print and distribute this rule once the proposed amendment is made effective.

◆ **LOCAL GOVERNMENTS:** No local governments will be directly or indirectly affected by this amendment because the constrained parties consist only of Foot Zone Center LLC and any individuals it will certify who also meet the other requirements for exemption under Subsection 58-47b-304(1)(m). Additionally, there are no local governments acting as businesses that will be impacted.

◆ **SMALL BUSINESSES:** Foot Zone Center LLC is the only small business that will be affected by this amendment. It will experience a fiscal benefit because it will have increased

opportunities to charge individuals for certification services. The full impact cannot be estimated as the necessary data is unavailable; it cannot be estimated how many individuals will choose to pursue and maintain certification with Foot Zone Center LLC.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This amendment will affect individuals who choose to become certified with Foot Zone Center LLC, and who also meet the other requirements for exemption under Subsection 58-47b-304(1)(m). These individuals may experience a fiscal benefit associated with the increased opportunity for certification and to charge for their services without needing to become licensed under Title 58. The full impact to these individuals cannot be estimated as the necessary data is unavailable. It cannot be estimated, firstly, how many individuals will obtain the necessary training to become certified, nor out of the individuals who decide to become certified, how many will choose to seek certification with Foot Zone Center LLC instead of another recognized entity.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This proposed amendment does not impose any compliance cost on any affected persons, as it merely adds the entity Foot Zone Center LLC to the list of entities with whom an individual may become certified.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Pursuant to Subsection 58-47b-304(1)(m), an individual may engage in the defined practice of massage therapy without being licensed under Title 58, Chapter 47b, Massage Therapy Practice Act, if the individual is certified by or through, and in good standing with, an industry organization recognized by the Division and meets certain other requirements. The Division lists the industry organizations it recognizes in Subsection R156-47b-102(8). This proposed amendment will add the entity "Foot Zone Center LLC" to the list of recognized industry organizations. Foot Zone Center LLC is the only small business that will be affected by this amendment. It will experience a fiscal benefit because it will have increased opportunities to charge customers/clients for certification services. The full impact cannot be estimated as the necessary data is unavailable; it cannot be estimated how many individuals will choose to pursue and maintain certification with Foot Zone Center LLC.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

COMMERCE
 OCCUPATIONAL AND PROFESSIONAL
 LICENSING
 HEBER M WELLS BLDG
 160 E 300 S
 SALT LAKE CITY, UT 84111-2316
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Allyson Pettley by phone at 801-530-6179, by FAX at 801-530-6511, or by Internet E-mail at apettley@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2018

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 09/18/2018 09:15 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2018

AUTHORIZED BY: Mark Steinagel, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$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

*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 for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

This amendment will not impact non-small businesses as it will only affect the small business Foot Zone Center LLC

and any individuals that may be certified by Foot Zone Center LLC.

The head of the Department of Commerce, Francine Giani, has reviewed and approved this fiscal analysis.

R156. Commerce, Occupational and Professional Licensing.

R156-47b. Massage Therapy Practice Act Rule.

R156-47b-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 47b, as used in Title 58, Chapters 1 and 47b, or this rule:

(1) "Accrediting agency" means an organization, association or commission nationally recognized by the United States Department of Education as a reliable authority in assessing the quality of education or training provided by the school or institution.

(2) "Body wrap" means a body treatment that:

- (a) may include one or more therapeutic preparations;
- (b) is not for cosmetic purposes; and

(c) maintains modesty by draping the body fully or partially.

(3) "Clinic" means performing the techniques and skills learned as a student under the curriculum of a registered school or an accredited school on the public, while in a supervised student setting.

(4) "Direct supervision" as used in Subsection 58-47b-302(3)(e) means that the apprentice supervisor, acting within the scope of the supervising licensee's license, is in the facility where massage is being performed and directs the work of an apprentice pursuant to this chapter under Subsection R156-1-102a(4)(a) while the apprentice is engaged in performing massage.

(5) "Distance learning" means the acquisition of knowledge and skills through information and instruction encompassing all technologies and other forms of learning at a distance, outside a school of massage meeting the standards in Section R156-47b-302 including internet, audio/visual recordings, mail or other correspondence.

(6) "FSMTB" means the Federation of State Massage Therapy Boards.

(7) "Hands on instruction" means direct experience with or application of the education or training in either a school of massage therapy or apprenticeship.

(8) "Industry organization", as used in Subsection 58-47b-304(1)(m), means any of the following organizations:

(a) American FootZonology Practitioners Association (AFZPA);

(b) American Reflexology Certification Board (ARCB);

(c) Butterfly Expressions, LLC;

(d) Foot Zone Center LLC;

([d]e) Reflexology Association of America (RAA);

([e]f) Society of Ortho-Bionomy International; or

([f]g) Utah Foot Zone Association.

(9) "Lymphatic massage" means a method using light pressure applied by the hands to the skin in specific maneuvers to promote drainage of the lymphatic fluid from the tissue.

(10) "Manipulation", as used in Subsection 58-47b-102(6)(b), means contact with movement, involving touching the clothed or unclothed body.

(11) "Massage client services" means practicing the techniques and skills learned as an apprentice on the public in training under direct supervision.

(12) "NCBTMB" means the National Certification Board for Therapeutic Massage and Bodywork.

(13) "Recognized school" means a school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that jurisdiction.

(14) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 47b, is further defined, in accordance with Subsection 58-1-203(1)(e) in Section R156-47b-502.

KEY: licensing, massage therapy, massage therapist, massage apprentice

Date of Enactment or Last Substantive Amendment: [~~March 8, 2016~~2018

Notice of Continuation: April 4, 2017

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-47b-101

Commerce, Occupational and Professional Licensing **R156-67** Utah Medical Practice Act Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43137

FILED: 08/07/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 396, passed during the 2017 General Session, amended the Medical Practice Act to establish the Associate Physician License classification effective 07/01/2018. This rule filing provides necessary definitions and establishes the requirements of the "collaborative practice arrangement contract" for an associate physician and a collaborative physician. Second, the amendments also clarify certain licensure requirements for all applicants applying for licensure as a physician and surgeon by defining the practitioner data banks used for verification.

SUMMARY OF THE RULE OR CHANGE: In Section R156-67-102, these amendments provide definitions relative to the collaborative practice arrangement contract, terms, and approval requirement. In Section R156-67-302a, these amendments clarify the qualifications for licensure for all applicants applying for licensure as a physician and surgeon under the Utah Medical Practice Act, by defining the practitioner data banks used for verification and required for submission of an application. Section R156-67-807 is a new

section added to this rule to establish and clarify the criteria for the collaborative practice arrangement contract between an associate physician and a collaborative physician.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-67-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** In Sections R156-67-102 and R156-67-807, because these proposed amendments only ensure that the rule implements the mandates of H.B. 396 (2017), the Division of Occupational and Professional Licensing (Division) estimates that there will be no impact on the state budget over and above that included in the fiscal note for H.B. 396 (2017), available online at <https://le.utah.gov/~2017/bills/static/HB0396.html>. In Section R156-67-302a, the Division estimates that there will be no impact on the state budget from these amendments that define the practitioner data banks used for verification, because these amendments only conform this rule to existing practice. The Division will incur minimal costs of approximately \$75 to disseminate this rule once these proposed amendments are made effective.

◆ **LOCAL GOVERNMENTS:** In Sections R156-67-102 and R156-67-807, because these proposed amendments only ensure that this rule implements the mandates of H.B. 396 (2017), the Division estimates that there will be no impact on local governments over and above that included in the fiscal note for H.B. 396 (2017), available online at <https://le.utah.gov/~2017/bills/static/HB0396.html>. In Section R156-67-302a, the Division estimates that there will be no impact on local governments from these amendments that define the practitioner data banks used for verification, because these amendments only conform this rule to existing practice.

◆ **SMALL BUSINESSES:** In Sections R156-67-102 and R156-67-807, these proposed amendments, which establish and clarify the criteria for the collaborative practice arrangement contract between an associate physician and the collaborative physician, will apply to any small business that chooses to hire an associate physician. There are currently 1,808 potential small-business employers in Utah in the health industry field (NAICS 621111, Offices of Physicians) who might hire an associate physician under the criteria clarified by these rule amendments. In turn, it is estimated that approximately two medical school graduates per year may apply for an associate physician position. In 2017, there were 92 graduates from the University of Utah Medical School (an increase of 12 from 2016). In Utah there are currently six residency sponsoring programs which include 34 specialties and 52 subspecialties for postgraduate training. There is an Osteopathic Medical School in Ivins, Utah, which opened in 2018, and an Osteopathic Medical School scheduled to open in Provo, Utah, in 2021, which may increase the number of graduates applying for residency programs in Utah. For 2018, 197 postgraduate education positions for first-year residents were available in Utah. Graduates from medical schools in the United States and foreign programs may also apply for these available

positions. In 2016, 94.3% of graduating medical students were matched to a residency program. An additional 3% of graduates are matched to residency programs after the initial match period, leaving only 3% of medical school graduates without a residency program. Statistically, this could leave 2 - 3 of the Utah graduates without a match. In short, the Division's analysis supports the estimate of the fiscal note for H.B. 396 (2017) that two graduates per year may apply for an associate physician position. Finally, however, regardless of the number of applicants for an associate physician position and the number of associate physician licensees in subsequent years, the Division estimates that these amendments will have no impact on any of these businesses over and above that already included in the fiscal note for H.B. 396 (2017), available online at: <https://le.utah.gov/~2017/bills/static/HB0396.html>, because these proposed amendments only implement the mandates of H.B. 396 (2017). In Section R156-67-302a, the Division estimates that there will be no impact on small business from these amendments that define the practitioner data banks used for verification, because these amendments only conform this rule to existing practice.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** In Sections R156-67-102 and R156-67-807, the Division estimates that these proposed amendments establishing and clarifying the criteria for the collaborative practice arrangement between an associate physician and the collaborative physician, will have no impact on other persons over and above that already included in the fiscal note for H.B. 396 (2017), available online at: <https://le.utah.gov/~2017/bills/static/HB0396.html>, because these proposed amendments only implement the mandates of H.B. 396 (2017). In Section R156-67-302a, the Division estimates that there will be no impact on other persons from these amendments that define the practitioner data banks used for verification, because these amendments only conform this rule to existing practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: In Sections R156-67-102 and R156-67-807, the fiscal note for H.B. 396 (2017) estimated that there would be a \$150 annual compliance cost (licensing fees) for each individual who qualifies for and elects to obtain an associate physician license. The Division estimates that these amendments will have no additional impact on these affected persons over and above this cost already included in the fiscal note, available online at: <https://le.utah.gov/~2017/bills/static/HB0396.html>, because the amendments only implement the mandates of H.B. 396 (2017). In Section R156-67-302a, the Division estimates that there will be no compliance costs to any affected persons from these amendments that define the practitioner data banks used for verification, because these amendments only conform this rule to existing practice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The new Section R156-67-807 and the amendments to Sections R156-67-102 and R156-67-302a implement H.B.

396 (2017). H.B. 396 amended the Medical Practice Act to establish the Associate Physician License classification effective 07/01/2018. This rule and these amendments provide necessary definitions, and establish and clarify the requirements of the collaborative practice arrangement between an associate physician and the collaborative physician. Second, these amendments also clarify certain licensure requirements for all applicants applying for licensure as a physician and surgeon by defining the practitioner data banks used for verification. In Section R156-67-102, these amendments to this rule provide definitions relative to the collaborative practice arrangement contract, terms, and approval requirement. In Section R156-67-302a, these amendments to this rule clarify the qualifications for licensure for all applicants applying for licensure as a physician and surgeon under the Utah Medical Practice Act, by defining the practitioner data banks used for verification and required for submission of an application. These amendments have no fiscal impact, as they merely conform this rule to existing practice. Section R156-67-807 is new and is added to establish and clarify the criteria for the collaborative practice arrangement contract between an associate physician and a collaborative physician. Because Section R156-67-807 and the amendment to Section R156-67-102 only implement the mandates of H.B. 396 (2017), the Division estimates that there will be no impact on businesses over and above that included in the fiscal note for H.B. 396 (2017), available online at <https://le.utah.gov/~2017/bills/static/HB0396.html>. Although there are currently 1,808 potential small-business employers in Utah in the health industry field (NAICS 621111, Offices of Physicians) who might hire an associate physician under the criteria clarified by this rule, the Division estimates that annually only two or three medical school graduates will apply for associate physician positions.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 COMMERCE
 OCCUPATIONAL AND PROFESSIONAL
 LICENSING
 HEBER M WELLS BLDG
 160 E 300 S
 SALT LAKE CITY, UT 84111-2316
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Larry Marx by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at lm Marx@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2018

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
 ♦ 09/20/2018 09:15 AM, Heber Wells Bldg, 160 E 300 S, North Conference Room (first floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2018

AUTHORIZED BY: Mark Steinagel, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$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

*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 for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

For Sections R156-67-102 and R156-67-807, there are currently 96 potential non-small business employers in Utah in the health industry field (NAICS 621111, Offices of Physicians) who might hire an associate physician under the criteria established and clarified for a collaborative practice arrangement pursuant to these proposed amendments, although again, it is estimated that only two medical school graduates per year may actually apply for an associate physician position. However, similar to small businesses, the Division estimates that these proposed amendments will have no impact on non-small businesses over and above that already included in the fiscal note for H.B. 396 (2017), available online at: <https://le.utah.gov/~2017/bills/static/HB0396.html>, because these proposed amendments only implement the mandates of H.B. 396 (2017).

For Section R156-67-302a, the Division estimates that there will be no impact on non-small businesses from these amendments that define the practitioner data banks used for verification, because these amendments only conform the rule to existing practice.

The head of the Department of Commerce, Francine Giani, has reviewed and approved this fiscal analysis.

R156. Commerce, Occupational and Professional Licensing.

R156-67. Utah Medical Practice Act Rule.

R156-67-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 67, as used in Title 58, Chapters 1 and 67 or this rule:

(1) "ACCME" means the Accreditation Council for Continuing Medical Education.

(2) "Alternate medical practices", as used in Section R156-67-603, means treatment or therapy which is determined in an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, to be:

(a) not generally recognized as standard in the practice of medicine;

(b) not shown by current generally accepted medical evidence to present a greater risk to the health, safety, or welfare of the patient than does prevailing treatment considered to be the standard in the profession of medicine; and

(c) supported by a body of current generally accepted written documentation demonstrating the treatment or therapy has reasonable potential to be of benefit to the patient to whom the therapy or treatment is to be given.

(3) "AMA" means the American Medical Association.

(4) "Collaborative practice arrangement contract" means a written, signed contract between a collaborating physician licensed and in good standing under Section 58-67-302, and an associate physician holding a restricted license in accordance with Section 58-67-302.8, that:

(a) includes the terms and conditions required by Section 58-67-807 and Section R156-67-807; and

(b) is approved by the Division in accordance with Section 58-67-807 and Section R156-67-807.

([4]5) "FLEX" means the Federation of State Medical Boards Licensing Examination.

([5]6) "FMGEMS" means the Foreign Medical Graduate Examination in Medical Science.

([6]7) "FSMB" means the Federation of State Medical Boards.

([7]8) "Homeopathic medicine" means a system of medicine employing and limited to substances prepared and prescribed in accordance with the principles of homeopathic pharmacology as described in the Homeopathic Pharmacopoeia of the United States, its compendia, addenda, and supplements, as officially recognized by the federal Food, Drug and Cosmetic Act, Public Law 717.21 U.S. Code Sec. 331 et seq., as well as the state of Utah's food and drug laws and Controlled Substances Act.

([8]9) "LMCC" means the Licentiate of the Medical Council of Canada.

([9]10) "NBME" means the National Board of Medical Examiners.

(11) "Supervision form" means the form provided by the Division to document completion of the "continuously present" or "on-site" supervision required by Subsection 58-67-807(1)(d) for an associate physician practicing in a medically underserved area.

([10]12) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 67 is further defined in accordance with Subsection 58-1-203(1)(e), in Section R156-67-502.

([4]13) "USMLE" means the United States Medical Licensing Examination.

R156-67-302a. Qualifications for Licensure - Practitioner Data Banks.

In accordance with Subsections 58-67-302(1)(a)(i) and 58-1-401(2), applicants applying for licensure under Subsections 58-67-302(1) and (2) shall ~~submit the~~ include the following:

(1) Federation Credentials Verification Service (FCVS) [form]report;

(2) American Medical Association Profile;

(3) Federation of State Medical Boards Disciplinary Inquiry report; and

(4) National Practitioner Data Bank Report of Action.

R156-67-807. Collaborative Practice Arrangement Contract - Duties and Responsibilities of Collaborating Physician and Associate Physician.

In accordance with Section 58-67-807, the Division's approval of a collaborative practice arrangement, and the educational methods and programs required of an associate physician throughout the duration of a collaborative practice arrangement, are established as follows:

(1) Collaborative practice arrangement contract.

(a) Before beginning a collaborative practice arrangement, the prospective collaborating physician and associate physician shall sign a written collaborative practice arrangement contract, which the associate physician shall submit to the Division for approval.

(b) A collaborative practice arrangement contract shall include at least the following:

(i) all of the terms and conditions required by Section 58-67-807, including:

(A) a description of how the health care services to be rendered by the associate physician under the collaborative practice arrangement will be consistent with the associate physician's skill, training, and competence;

(B) a description of the medically underserved population or medically underserved area within the state where the associate physician will provide primary care services;

(C) if the associate physician will practice in a medically underserved area, a plan for documenting completion of the "continuously present" or "on-site" supervision required by Subsection 58-67-807(1)(d), using the Division-provided supervision forms;

(D) if the associate physician will prescribe Schedule III through V controlled substances, documentation of the associate physician's mid-level practitioner Federal Drug Administration (DEA) registration; and

(E) a provision requiring the associate physician to notify the Division in writing within 10 days of any modifications to the collaborative practice arrangement contract, and providing that any changes shall become effective only upon receipt of written notice from the Division approving the changes;

(ii) in accordance with Subsection 58-67-807(4), a plan establishing educational methods and programs that the associate physician shall complete throughout the duration of the collaborative practice arrangement contract, which:

(A) will facilitate the advancement of the associate physician's medical knowledge and abilities; and

(iii) remedies in the event of breach of contract by either the collaborating physician or associate physician, including procedures for contract termination and written notification to the Division.

(c) Before an associate physician may render any health care services under a collaborative practice arrangement, the parties must have obtained the Division's written approval of the collaborative practice arrangement contract.

(d) In evaluating a collaborative practice arrangement contract, the Division shall consider whether it sufficiently complies with all of the terms and conditions required by Section 58-67-807 and this section to adequately protect the public health, safety, and welfare.

(2) Collaborating physician duties and responsibilities.

A collaborating physician overseeing an associate physician shall have the following duties and responsibilities:

(a) ensure that the collaborating physician and associate physician:

(i) are both appropriately licensed; and

(ii) are practicing pursuant to a Division-approved collaborative practice arrangement contract in accordance with Subsection (1);

(b) ensure that during the term of the collaborative practice arrangement contract the collaborating physician does not enter into a collaborative practice arrangement with more than three full-time equivalent associate physicians as required by Subsection 58-67-807(3)(b);

(c) maintain a relationship with the associate physician in which the collaborating physician is independent from control by the associate physician, and in which the ability of the collaborating physician to supervise and direct the health care services rendered by the associate physician is not compromised;

(d) be available to the associate physician for advice, consultation, and direction consistent with the standards and ethics of the profession and the requirements suggested by the total of the profession and the requirements suggested by the total circumstances, including consideration of the associate physician's level of skill, training, and competence and other factors known to the associate physician and collaborating physician;

(e) ensure periodic review of the charts documenting the associate physician's delivery of health care services, in compliance with Subsection 58-67-807(1)(b)(xii);

(f) monitor the associate physician's performance for compliance with the laws, rules, standards, and ethics of the profession, and report violations to the Division; and

(g) upon request, submit appropriate documentation to the Division with respect to practice hours completed by the associate physician evidencing the "continuously present" or "on-site" supervision required by Subsection 58-67-807(1)(d).

(3) Associate physician duties and responsibilities.

An associate physician shall have the following duties and responsibilities:

(a) prior to beginning a collaborative practice arrangement and rendering any health care services, enter into a Division-approved collaborative practice arrangement contract with a collaborating physician in accordance with Subsection (1);

(b) maintain required licensure and any DEA registration;

(c) be professionally responsible for the acts and practices of the associate physician; and

(d) comply with all applicable laws, rules, standards, and ethics of the profession.

(4)(a) A collaborating physician shall submit to the Division a written explanation outlining the collaborating physician's concerns if the collaborating physician:

(i) terminates a collaborative practice arrangement contract for cause;

(ii) does not support continuance of a license for an associate physician to practice; or

(iii) has other concerns regarding the associate physician that the collaborating physician believes requires input from the Division and Board.

(b) Upon receipt of written concerns from a collaborating physician with respect to an associate physician, the Division shall:

(i) provide the associate physician an opportunity to respond in writing to the Division regarding the collaborating physician's concerns;

(ii) review the written statements from the collaborating physician and associate physician with the Board; and

(iii) in consultation with the Board, take any appropriate licensure action.

KEY: physicians, licensing

Date of Enactment or Last Substantive Amendment:
[~~December 11, 2017~~2018]

Notice of Continuation: February 8, 2016

Authorizing, and Implemented or Interpreted Law: 58-67-101; 58-1-106(1)(a); 58-1-202(1)(a)

**Commerce, Occupational and
Professional Licensing
R156-68
Utah Osteopathic Medical Practice Act
Rule**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 43142

FILED: 08/09/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 396, passed during the 2017 General Session, amended the Osteopathic Medical Practice Act to establish the Associate Physician License classification effective 07/01/2018. This rule filing provides necessary definitions and establishes the requirements of the "collaborative practice arrangement contract" for an associate physician and a collaborative physician. Second, these amendments also clarify certain licensure requirements for all applicants applying for licensure as an osteopathic physician and surgeon by defining the practitioner data banks used for verification.

SUMMARY OF THE RULE OR CHANGE: In Section R156-68-102, these amendments provide definitions relative to the collaborative practice arrangement contract, terms, and approval requirement. In Section R156-68-302a, these amendments clarify the qualifications for licensure for all applicants applying for licensure as an osteopathic physician and surgeon under the Utah Osteopathic Medical Practice Act, by defining the practitioner data banks used for verification and required for submission of an application. Section R156-68-807 is a new section to this rule to establish and clarify the criteria for the collaborative practice arrangement contract between an associate physician and a collaborative physician.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-68-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** In Sections R156-68-102 and R156-68-807, because these proposed amendments only ensure that this rule implements the mandates of H.B. 396 (2017), the Division of Occupational and Professional Licensing (Division) estimates that there will be no impact on the state budget over and above that included in the fiscal note for H.B. 396 (2017), available online at <https://le.utah.gov/~2017/bills/static/HB0396.html>. In Section R156-68-302a, the Division estimates that there will be no impact on the state budget from these amendments that define the practitioner data banks used for verification, because these amendments only conform this rule to existing practice. The Division will incur minimal costs of approximately \$75 to disseminate this rule once these proposed amendments are made effective.

◆ **LOCAL GOVERNMENTS:** In Sections R156-68-102 and R156-68-807, because these proposed amendments only ensure that this rule implements the mandates of H.B. 396 (2017), the Division estimates that there will be no impact on local governments over and above that included in the fiscal note for H.B. 396 (2017), available online at <https://le.utah.gov/~2017/bills/static/HB0396.html>. In Section R156-68-302a, the Division estimates that there will be no impact on local governments from these amendments that define the practitioner data banks used for verification, because these amendments only conform this rule to existing practice.

◆ **SMALL BUSINESSES:** In Sections R156-68-102 and R156-68-807, these proposed amendments, which establish and clarify the criteria for the collaborative practice arrangement contract between an associate physician and the collaborative physician, will apply to any small business that chooses to hire an associate physician. There are currently 1,808 potential small-business employers in Utah in the health industry field (NAICS 621111, Offices of Physicians) who might hire an associate physician under the criteria clarified by this rule. In turn, it is estimated that approximately two medical school graduates per year may apply for an associate physician position. In 2017, there were 92 graduates from the University of Utah Medical School (an increase of 12 from 2016). In Utah, there are currently 6

residency sponsoring programs which include 34 specialties and 52 subspecialties for postgraduate training. There is an Osteopathic Medical School in Ivins, Utah, which opened in 2018, and an Osteopathic Medical School scheduled to open in Provo, Utah, in 2021, which may increase the number of graduates applying for residency programs in Utah. For 2018, 197 postgraduate education positions for first-year residents were available in Utah. Graduates from medical schools in the United States and foreign programs may also apply for these available positions. In 2016, 94.3% of graduating medical students were matched to a residency program. An additional 3% of graduates are matched to residency programs after the initial match period, leaving only 3% of medical school graduates without a residency program. Statistically, this could leave 2 - 3 of the Utah graduates without a match. In short, the Division's analysis supports the estimate of the fiscal note for H.B. 396 (2017) that two graduates per year may apply for an associate physician position. Finally, however, regardless of the number of applicants for an associate physician position and the number of associate physician licensees in subsequent years, the Division estimates that these amendments will have no impact on any of these businesses over and above that already included in the fiscal note for H.B. 396 (2017), available online at: <https://le.utah.gov/~2017/bills/static/HB0396.html>, because these proposed amendments only implement the mandates of H.B. 396 (2017). In Section R156-68-302a, the Division estimates that there will be no impact on small business from these amendments that define the practitioner data banks used for verification, because these amendments only conform this rule to existing practice.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** In Sections R156-68-102 and R156-68-807, the Division estimates that these proposed amendments establishing and clarifying the criteria for the collaborative practice arrangement between an associate physician and the collaborative physician, will have no impact on other persons over and above that already included in the fiscal note for H.B. 396 (2017), available online at: <https://le.utah.gov/~2017/bills/static/HB0396.html>, because these proposed amendments only implement the mandates of H.B. 396 (2017). In Section R156-68-302a, the Division estimates that there will be no impact on other persons from these amendments that define the practitioner data banks used for verification, because these amendments only conform this rule to existing practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: In Sections R156-68-102 and R156-68-807, the fiscal note for H.B. 396 (2017) estimated that there would be a \$150 annual compliance cost (licensing fees) for each individual who qualifies for and elects to obtain an associate physician license. The Division estimates that these amendments will have no additional impact on these affected persons over and above this cost already included in the fiscal note, available online at: <https://le.utah.gov/~2017/bills/static/HB0396.html>, because these amendments only implement the mandates of H.B. 396 (2017). In Section R156-68-302a, the Division

estimates that there will be no compliance costs to any affected persons from these amendments that define the practitioner data banks used for verification, because these amendments only conform this rule to existing practice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The new Section R156-68-807 and the amendments to Sections R156-68-102 and R156-68-302a implement H.B. 396 (2017). H.B. 396 amended the Osteopathic Medical Practice Act to establish the Associate Physician License classification effective 07/01/2018. This rule and these amendments provide necessary definitions and establish and clarify the requirements of the collaborative practice arrangement between an associate physician and the collaborative physician. Second, these amendments also clarify certain licensure requirements for all applicants applying for licensure as an osteopathic physician and surgeon by defining the practitioner data banks used for verification. In Section R156-68-102, these amendments to this rule provide definitions relative to the collaborative practice arrangement contract, terms, and approval requirement. In Section R156-68-302a, these amendments to this rule clarify the qualifications for licensure for all applicants applying for licensure as an osteopathic physician and surgeon under the Utah Osteopathic Medical Practice Act, by defining the practitioner data banks used for verification and required for submission of an application. These amendments have no fiscal impact, as they merely conform this rule to existing practice. The new Section R156-68-807 is added to establish and clarify the criteria for the collaborative practice arrangement contract between an associate physician and a collaborative physician. Because Section R156-68-807 and these amendments to Section R156-68-102 only implement the mandates of H.B. 396 (2017), the Division estimates that there will be no impact on businesses over and above that included in the fiscal note for H.B. 396 (2017), available online at <https://le.utah.gov/~2017/bills/static/HB0396.html>. Although there are currently 1,808 potential small-business employers in Utah in the health industry field (NAICS 621111, Offices of Physicians) who might hire an associate physician under the criteria clarified by these amendments, the Division estimates that annually only two or three medical school graduates will apply for associate physician positions.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 COMMERCE
 OCCUPATIONAL AND PROFESSIONAL
 LICENSING
 HEBER M WELLS BLDG
 160 E 300 S
 SALT LAKE CITY, UT 84111-2316
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Larry Marx by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at lmrx@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2018

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
 ♦ 09/20/2018 09:15 AM, Heber Wells Bldg, 160 E 300 S, North Conference Room (first floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2018

AUTHORIZED BY: Mark Steinagel, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$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

*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 for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

For Sections R156-68-102 and R156-68-807, there are currently 96 potential non-small business employers in Utah in the health industry field (NAICS 621111, Offices of Physicians) who might hire an associate physician under the criteria established and clarified for a collaborative practice arrangement pursuant to these proposed amendments, although again, it is estimated that only two medical school graduates per year may actually apply for an associate physician position. However, similar to small businesses, the Division estimates that these

proposed amendments will have no impact on non-small businesses over and above that already included in the fiscal note for H.B. 396 (2017), available online at: <https://le.utah.gov/~2017/bills/static/HB0396.html>, because these proposed amendments only implement the mandates of H.B. 396 (2017).

For Section R156-68-302a, the Division estimates that there will be no impact on non-small businesses from these amendments that define the practitioner data banks used for verification, because these amendments only conform this rule to existing practice.

The head of the Department of Commerce, Francine Giani, has reviewed and approved this fiscal analysis.

**R156. Commerce, Occupational and Professional Licensing.
R156-68. Utah Osteopathic Medical Practice Act Rule.
R156-68-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 68, as used in Title 58, Chapters 1 and 68 or this rule:

(1) "AAPS" means American Association of Physician Specialists.

(2) "ABMS" means American Board of Medical Specialties.

(3) "ACCME" means Accreditation Council for Continuing Medical Education.

(4) "Alternate medical practices" as used in Section R156-68-603, means treatment or therapy which is determined in an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, to be:

(a) not generally recognized as standard in the practice of medicine;

(b) not shown by current generally accepted medical evidence to present a greater risk to the health, safety or welfare of the patient than does prevailing treatment considered to be the standard in the profession of medicine; and

(c) supported by a body of current generally accepted written documentation demonstrating the treatment or therapy has reasonable potential to be of benefit to the patient to whom the therapy or treatment is to be given.

(5) "AMA" means the American Medical Association.

(6) "AOA" means American Osteopathic Association.

(7) "Collaborative practice arrangement contract" means a written, signed contract between a collaborating physician licensed and in good standing under Section 58-68-302, and an associate physician holding a restricted license in accordance with Section 58-68-302.5, that:

(a) includes the terms and conditions required by Section 58-68-807 and Section R156-68-807; and

(b) is approved by the Division in accordance with Section 58-68-807 and Section R156-68-807.

([7]8) "COMLEX" means the Comprehensive Osteopathic Medical Licensing Examination.

([8]9) "FLEX" means the Federation of State Medical Boards Licensure Examination.

([9]10) "FMGEMS" means the Foreign Medical Graduate Examination in Medical Science.

([10]11) "FSMB" means the Federation of State Medical Boards.

([11]12) "Homeopathic medicine" means a system of medicine employing and limited to substances prepared and

prescribed in accordance with the principles of homeopathic pharmacology as described in the Homeopathic Pharmacopoeia of the United States, its compendia, addenda, and supplements, as officially recognized by the federal Food, Drug and Cosmetic Act, Public Law 717.21 U.S. Code Sec. 331 et seq., as well as the state of Utah's food and drug laws and Controlled Substances Act.

([12]13) "LMCC" means the Licentiate of the Medical Council of Canada.

([13]14) "NBME" means the National Board of Medical Examiners.

([14]15) "NBOME" means the National Board of Osteopathic Medical Examiners.

([15]16) "NPDB" means the National Practitioner Data Bank.

(17) "Supervision form" means the form provided by the Division to document completion of the "continuously present" or "on-site" supervision required by Subsection 58-68-807(1)(d) for an associate physician practicing in a medically underserved area.

([16]18) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 68, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-68-502.

([17]19) "USMLE" means the United States Medical Licensing Examination.

R156-68-302a. Qualifications for Licensure - Application Requirements.

In accordance with Subsections 58-68-301(1)(a)(i), submissions by the applicant of information maintained by practitioner data banks shall include the following:

(1) American Osteopathic Association Profile or American Medical Association Profile;

(2) Federation of State Medical Boards Disciplinary Inquiry form; ~~and~~

(3) Federation Credentials Verification (FCVS) report; and

([3]4) National Practitioner Data Bank Report of Action.

R156-68-807. Collaborative Practice Arrangement Contract - Duties and Responsibilities of Collaborating Physician and Associate Physician.

In accordance with Section 58-68-807, the Division's approval of a collaborative practice arrangement, and the educational methods and programs required of an associate physician throughout the duration of a collaborative practice arrangement, are established as follows:

(1) Collaborative practice arrangement contract.

(a) Before beginning a collaborative practice arrangement, the prospective collaborating physician and associate physician shall sign a written collaborative practice arrangement contract, which the associate physician shall submit to the Division for approval.

(b) A collaborative practice arrangement contract shall include at least the following:

(i) all of the terms and conditions required by Section 58-68-807, including:

(A) a description of how the health care services to be rendered by the associate physician under the collaborative practice arrangement will be consistent with the associate physician's skill, training, and competence;

_____ (B) a description of the medically underserved population or medically underserved area within the state where the associate physician will provide primary care services;

_____ (C) if the associate physician will practice in a medically underserved area, a plan for documenting completion of the "continuously present" or "on-site" supervision required by Subsection 58-68-807(1)(d), using the Division-provided supervision forms;

_____ (D) if the associate physician will prescribe Schedule III through V controlled substances, documentation of the associate physician's mid-level practitioner Federal Drug Administration (DEA) registration; and

_____ (E) a provision requiring the associate physician to notify the Division in writing within 10 days of any modifications to the collaborative practice arrangement contract, and providing that any changes shall become effective only upon receipt of written notice from the Division approving the changes;

_____ (ii) in accordance with Subsection 58-68-807(4), a plan establishing educational methods and programs that the associate physician shall complete throughout the duration of the collaborative practice arrangement contract, which:

_____ (A) will facilitate the advancement of the associate physician's medical knowledge and abilities; and

_____ (iii) remedies in the event of breach of contract by either the collaborating physician or associate physician, including procedures for contract termination and written notification to the Division.

_____ (c) Before an associate physician may render any health care services under a collaborative practice arrangement, the parties must have obtained the Division's written approval of the collaborative practice arrangement contract.

_____ (d) In evaluating a collaborative practice arrangement contract, the Division shall consider whether it sufficiently complies with all of the terms and conditions required by Section 58-68-807 and this section to adequately protect the public health, safety, and welfare.

_____ (2) Collaborating physician duties and responsibilities.

_____ A collaborating physician overseeing an associate physician shall have the following duties and responsibilities:

_____ (a) ensure that the collaborating physician and associate physician:

_____ (i) are both appropriately licensed; and

_____ (ii) are practicing pursuant to a Division-approved collaborative practice arrangement contract in accordance with Subsection (1);

_____ (b) ensure that during the term of the collaborative practice arrangement contract the collaborating physician does not enter into a collaborative practice arrangement with more than three full-time equivalent associate physicians as required by Subsection 58-68-807(3)(b);

_____ (c) maintain a relationship with the associate physician in which the collaborating physician is independent from control by the associate physician, and in which the ability of the collaborating physician to supervise and direct the health care services rendered by the associate physician is not compromised;

_____ (d) be available to the associate physician for advice, consultation, and direction consistent with the standards and ethics of the profession and the requirements suggested by the total of the profession and the requirements suggested by the total

_____ circumstances, including consideration of the associate physician's level of skill, training, and competence and other factors known to the associate physician and collaborating physician;

_____ (e) ensure periodic review of the charts documenting the associate physician's delivery of health care services, in compliance with Subsection 58-68-807(1)(b)(xii);

_____ (f) monitor the associate physician's performance for compliance with the laws, rules, standards, and ethics of the profession, and report violations to the Division; and

_____ (g) upon request, submit appropriate documentation to the Division with respect to practice hours completed by the associate physician evidencing the "continuously present" or "on-site" supervision required by Subsection 58-68-807(1)(d).

_____ (3) Associate physician duties and responsibilities.

_____ An associate physician shall have the following duties and responsibilities:

_____ (a) prior to beginning a collaborative practice arrangement and rendering any health care services, enter into a Division-approved collaborative practice arrangement contract with a collaborating physician in accordance with Subsection (1);

_____ (b) maintain required licensure and any DEA registration;

_____ (c) be professionally responsible for the acts and practices of the associate physician; and

_____ (d) comply with all applicable laws, rules, standards, and ethics of the profession.

_____ (4)(a) A collaborating physician shall submit to the Division a written explanation outlining the collaborating physician's concerns if the collaborating physician:

_____ (i) terminates a collaborative practice arrangement contract for cause;

_____ (ii) does not support continuance of a license for an associate physician to practice; or

_____ (iii) has other concerns regarding the associate physician that the collaborating physician believes requires input from the Division and Board.

_____ (b) Upon receipt of written concerns from a collaborating physician with respect to an associate physician, the Division shall:

_____ (i) provide the associate physician an opportunity to respond in writing to the Division regarding the collaborating physician's concerns;

_____ (ii) review the written statements from the collaborating physician and associate physician with the Board; and

_____ (iii) in consultation with the Board, take any appropriate licensure action.

KEY: osteopaths, licensing, osteopathic physician

Date of Enactment or Last Substantive Amendment: [December 11, 2017]2018

Notice of Continuation: January 8, 2018

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-68-101

**Education, Administration
R277-400
School Facility Emergency and Safety**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 43138
FILED: 08/07/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R277-400 was amended to provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies. Section R277-400-6 was amended to update school emergency drill requirements.

SUMMARY OF THE RULE OR CHANGE: Section R277-400-6 was amended to update school emergency drill requirements to include a requirement that: 1) each local education agency (LEA) develop a student and parent reunification plan with the LEA's local law enforcement agency; and 2) beginning with the 2019 - 2020 school year, a school have at least one parent and student reunification drill per year. Plus, the rule amendments provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Subsection 53E-3-401(4)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This rule change is not expected to have any material fiscal impacts on state government revenues or expenditures because it provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies.
- ◆ **LOCAL GOVERNMENTS:** This rule change is not expected to have any material fiscal impacts on local governments' revenues or expenditures because it provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies.
- ◆ **SMALL BUSINESSES:** This rule change is not expected to have any material fiscal impacts on small businesses' revenues or expenditures because it provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule change is not expected to have any material fiscal impacts on other persons revenues or expenditures because it provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) operating in Utah

according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). These rule changes apply to a program for LEAs and will not have a fiscal impact on non-small or small businesses. The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Angela Stallings by phone at 801-538-7550, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2018

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$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

*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 for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses
 There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). These rule changes apply to a program for local education agencies and will not have a fiscal impact on non-small or small businesses.

The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

R277. Education, Administration.
R277-400. School Facility Emergency and Safety.
[R277-400-1. Definitions.

- A. "Board" means the Utah State Board of Education.
- B. "Emergency" means a natural or man-made disaster, accident, act of war, or other circumstance which could reasonably endanger the safety of school children or disrupt the operation of the school.
- C. "Emergency Preparedness Plan" means policies and procedures developed to promote the safety and welfare of students; protect school property; or regulate the operation of schools during an emergency occurring within an LEA or a school.
- D. "Emergency Response Plan" means a plan developed by an LEA or school to prepare and protect students and staff in the event of school violence emergencies.
- E. "LEA" means local education agency, including local school boards/ public school districts, charter schools, and, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

R277-400-2. Authority and Purpose.
 A. This rule is authorized under Utah Constitution Article X Section 3 which vests general control and supervision of public education in the Board, and Subsection 53E-3-401(4) which allows the Board to adopt rules in accordance with its responsibilities.
 B. The purpose of this rule is to establish general criteria for both Emergency Preparedness and Emergency Response plans

required of schools and LEAs in the event of school emergencies as defined in R277-400-1B. This rule also directs LEAs to develop prevention, intervention, and response measures and to prepare staff and students to respond promptly and appropriately to school emergencies.

R277-400-3. Establishing LEA Emergency Preparedness and Emergency Response Plans.

- A. By July 1 of each year, each LEA shall certify to the Board that the LEA emergency preparedness and emergency response plan has been practiced at the school level, presented to and reviewed by its teachers, administrators, students and their parents, local law enforcement, and public safety representatives consistent with Subsection 53G-4-402(18).
- B. As a part of an LEA's annual application for state or federal Safe and Drug Free School funds, the LEA shall reference its Emergency Response plan.
- C. The plan(s) shall be designed to meet individual school needs and features. An LEA may direct schools within the LEA to develop and implement individual plans.
- D. The LEA shall appoint a committee to prepare plan(s) or modify existing plan(s) to satisfy this rule. The committee shall consist of appropriate school and community representatives which may include school and LEA administrators, teachers, parents, community and municipal governmental officers, and fire and law enforcement personnel. The committee shall include governmental agencies and bodies vested with responsibility for directing and coordinating emergency services on local and state levels.
- E. Each LEA shall review the plan(s) at least once every three years.
- F. The Board shall develop Emergency Response Plan models under Subsection 53G-4-402(18)(e).

R277-400-4. Notice and Preparation.

- A. Each school shall file a copy of the plan(s) with the LEA superintendent or charter school director.
- B. At the beginning of each school year, the LEA or school shall send or provide online a written notice to parents and staff of relevant sections of LEA and school plans which are applicable to that school.
- C. Each school shall designate an Emergency Preparedness/Emergency Response week prior to April 30 of each school year. Community, student, teacher awareness, or training, such as those outlined in R277-400-7 and 8, would be appropriate activities offered during the week.
- D. Each school's emergency response plan shall include procedures to notify students, to the extent practicable, who are off campus at the time of a school violence emergency consistent with Subsection 53G-4-402(18)(b)(v).

R277-400-5. Plan(s) Content—Educational Services and Student Supervision and Building Access.

- A. An LEA's plan shall contain measures which assure that school children receive reasonably adequate educational services and supervision during school hours during an emergency and for education services in an extended emergency situation.
 - (1) Evacuation procedures shall assure reasonable care and supervision of children until responsibility has been affirmatively assumed by another responsible party.

~~(2) LEAs or schools shall not release children younger than ninth grade age at other than regularly scheduled release times unless the parents or other responsible persons have been notified and have assumed responsibility for the children. LEAs or schools may release older children without such notification if a school official determines that the children are reasonably responsible and notification is not practicable.~~

~~B. LEA plans, as determined by the LEA board, shall address access to public school buildings by specific groups: students, community members, lessees, invitees, and others.~~

~~(1) Access planning may include restricted access for some individuals.~~

~~(2) Plans shall address building access during identified time periods.~~

~~(3) Plans shall address possession and use of school keys by designated administrators and employees.~~

~~C. An LEA's or school's plan shall identify resources and materials available for emergency training for LEA employees.~~

~~R277-400-6. Emergency Preparedness Training for School Occupants:~~

~~A. The plan shall contain measures which assure that school children receive emergency preparedness training.~~

~~B. LEAs or schools shall provide school children with training appropriate to their ages in rescue techniques, first aid, safety measures appropriate for specific emergencies, and other emergency skills.~~

~~C. Emergency drills:~~

~~(1) During each school year, elementary schools shall conduct emergency drills at least once each month during school time.~~

~~(2) LEAs shall alternate one of the following practices or drills with required fire drills:~~

~~(a) shelter in place;~~

~~(b) earthquake;~~

~~(c) lock down for violence;~~

~~(d) bomb threat;~~

~~(e) civil disturbance;~~

~~(f) flood;~~

~~(g) hazardous materials spill;~~

~~(h) utility failure;~~

~~(i) wind or other types of severe weather;~~

~~(j) shelter and mass care for natural and technological hazards; or~~

~~(k) an emergency drill appropriate for the particular school location.~~

~~D. Fire drills:~~

~~(1) Fire drills shall include the complete evacuation of all persons from the school building or the portion of the building used for educational purposes. LEAs or schools may make an exception for the staff member responsible for notifying the local fire emergency contact and handling emergency communications.~~

~~(2) All schools shall have one fire drill in the first 10 days of the regular school year.~~

~~(3) Elementary schools (grades K-6) shall have at least one fire drill every other month throughout the school year.~~

~~(4) Secondary schools (grades 7-12) shall have at least one fire drill every two months throughout the school year.~~

~~(5) Secondary schools (grades 7-12) shall have one fire drill in the first 10 days of the calendar year.~~

~~(6) When required by the local fire chief, the LEA shall notify the local fire department prior to each fire drill.~~

~~(7) When a fire alarm system is provided, an LEA shall initiate by activation of the fire alarm system.~~

~~E. Schools that include both elementary and secondary grades in the school shall comply, at a minimum, with the elementary emergency drill requirements.~~

~~R277-400-7. Emergency Response Review and Coordination:~~

~~A. Each LEA shall provide an annual training for LEA and school building staff on employees' roles, responsibilities and priorities in the emergency response plan.~~

~~B. LEAs shall require schools to conduct at least one annual drill for school emergencies in addition to drills required under R277-400-6C(2) which shall be held no later than October 1 annually.~~

~~C. LEAs shall require schools to review existing security measures and procedures within their schools and make adjustments as needs demonstrate and funds are available.~~

~~D. LEAs shall develop standards and protections to the extent practicable for participants and attendees at school-related activities, with special attention to those off school property.~~

~~E. LEAs and schools shall coordinate with local law enforcement and other public safety representatives in appropriate drills for school safety emergencies.~~

~~R277-400-8. Prevention and Intervention:~~

~~A. LEAs shall provide schools, as part of their regular curriculum, comprehensive violence prevention and intervention strategies such as resource lessons and materials on anger management, conflict resolution, and respect for diversity and other cultures.~~

~~B. As part of the violence prevention and intervention strategies, schools may provide age-appropriate instruction on firearm safety including appropriate steps to take if a student sees a firearm or facsimile in school.~~

~~C. LEAs shall also develop, to the extent resources permit, student assistance programs such as care teams, school intervention programs, and interagency case management teams.~~

~~D. In developing student assistance programs, LEAs should coordinate with and seek support from other state agencies and the Utah State Office of Education.~~

~~R277-400-9. Cooperation With Governmental Entities:~~

~~A. As appropriate, an LEA may enter into cooperative agreements with other governmental entities to assure proper coordination and support during emergencies.~~

~~B. LEAs shall cooperate with other governmental entities, as reasonably feasible, to provide emergency relief services. The plan(s) shall contain procedures for assessing and providing school facilities, equipment, and personnel to meet public emergency needs.~~

~~C. The plan(s) developed under R277-400-5 shall delineate communication channels and lines of authority within the LEA, city, county, and state:~~

~~(1) the Board, through its superintendent, is the chief officer for emergencies involving more than one LEA, or for state or federal assistance;~~

~~(2) the local board, through its superintendent, is the chief officer for LEA emergencies;~~

~~_____ (3) the local charter school board through its director is the chief officer for local charter school emergencies; and~~

~~_____ (4) In the event of an emergency, school personnel shall maintain control of public school students and facilities during the regular school day or until students are released to parents or legal guardians.~~

R277-400-10. Fiscal Accountability.

~~_____ The plan(s) under R277-400-5 shall address procedures for recording LEA funds expected for emergencies, for assessing and repairing damage, and for seeking reimbursement for emergency expenditures.~~

R277-400-11. School Carbon Monoxide Detection.

~~_____ A. New educational facilities shall have a carbon monoxide detection system installed consistent with International Fire Code (IFC), Chapter 9, Sections 908.7.2.1 through 908.7.2.6.~~

~~_____ B. Existing facilities shall have a carbon monoxide detection system installed consistent with International Fire Code (IFC), Chapter 11, Section 1103.9.~~

~~_____ C. Where required, LEAs shall provide a carbon monoxide detection system where a fuel-burning appliance, a fuel-burning fireplace, or a fuel-burning forced air furnace is present consistent with IFC 908.7.2.1.~~

~~_____ D. LEAs shall install each carbon monoxide detection system consistent with NFPA 720 and the manufacturer's instructions; and listed systems as complying with UL 2034 and UL 2075.~~

~~_____ E. LEAs shall install each carbon monoxide detection system in the locations specified in NFPA 720.~~

~~_____ F. A combination carbon monoxide/smoke detector is an acceptable alternative to a carbon monoxide detection system if the combination carbon monoxide/smoke detector is listed consistent with UL 2075 and UL 268.~~

~~_____ G. Each carbon monoxide detection system shall receive primary power from the building wiring if the wiring is served from a commercial source. If primary power is interrupted, a battery shall provide each carbon monoxide detection system with power. Wiring shall be permanent and without a disconnecting switch other than that required for over-current protection.~~

~~_____ H. LEAs shall maintain all carbon monoxide detection systems consistent with IFC 908.7.2.5 and NFPA 720.~~

~~_____ I. Performance-based alternative design of carbon monoxide detection systems is acceptable consistent with NFPA 720; Section 6.5.4.5.~~

~~_____ J. LEAs shall monitor carbon monoxide detection systems remotely consistent with NFPA 720.~~

~~_____ K. LEAs shall replace a carbon monoxide detection system that becomes inoperable or begins to produce end-of-life signals.]~~

R277-400-1. Authority and Purpose.

~~_____ (1) This rule is authorized by:~~

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

~~_____ (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.~~

~~_____ (2) The purpose of this rule is to:~~

~~_____ (a) establish general criteria for emergency preparedness and emergency response plans; and~~

~~_____ (b) direct LEAs to~~

~~_____ (i) develop prevention, intervention, and response measures; and~~

~~_____ (ii) prepare staff and students to respond promptly and appropriately to school emergencies.~~

R277-400-2. Definitions.

~~_____ 1 "Emergency" means a natural or man-made disaster, accident, act of war, or other circumstance that could reasonably endanger the safety of school children or disrupt the operation of the school.~~

~~_____ 2 "Emergency Preparedness Plan" means policies and procedures developed to promote the safety and welfare of students, protect school property, or regulate the operation of schools during an emergency occurring within an LEA or a school.~~

~~_____ (3) "Emergency Response Plan" means a plan developed by an LEA or school to prepare and protect students and staff in the event of school violence emergencies.~~

~~_____ (4) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.~~

~~_____ (5) "Plan" means an LEA's or school's emergency preparedness and emergency response plan.~~

R277-400-3. Establishing LEA Emergency Preparedness and Emergency Response Plans.

~~_____ (1) By July 1 of each year, each LEA shall certify to the Superintendent that the LEA emergency preparedness and emergency response plan has been:~~

~~_____ (a) practiced at the school level; and~~

~~_____ (b) presented to and reviewed by its teachers, administrators, students and their parents, local law enforcement, and public safety representatives consistent with Subsection 53G-4-402(18).~~

~~_____ (2) As a part of an LEA's annual application for state or federal Safe and Drug Free School funds, the LEA shall reference its Emergency Response plan.~~

~~_____ (3)(a) LEA plans shall be designed to meet individual school needs and features.~~

~~_____ (b) An LEA may direct schools within the LEA to develop and implement individual plans.~~

~~_____ (4)(a) An LEA shall appoint a committee to prepare plans or modify existing plans to satisfy this Rule R277-400.~~

~~_____ (b) The committee shall consist of appropriate school and community representatives, which may include:~~

~~_____ (i) school and LEA administrators;~~

~~_____ (ii) teachers;~~

~~_____ (iii) parents;~~

~~_____ (iv) community and municipal governmental officers; and~~

~~_____ (v) fire and law enforcement personnel.~~

~~_____ (c) The committee shall include governmental agencies and bodies vested with responsibility for directing and coordinating emergency services on local and state levels.~~

~~_____ (5) An LEA shall review plans required this rule at least once every three years.~~

~~_____ (6) The Superintendent shall develop Emergency Response Plan models under Subsection 53G-4-402(18)(c).~~

R277-400-4. Notice and Preparation.

(1) Each school shall file a copy of plans required by this Rule R277-400 with the LEA superintendent or charter school director.

(2) At the beginning of each school year, an LEA or school shall send or provide online a written notice to parents and staff of sections of LEA and school plans, which are applicable to that school.

(3)(a) A school shall designate an Emergency Preparedness/Emergency Response week prior to April 30 of each school year.

(b) An LEA shall offer appropriate activities, such as community, student, and teacher awareness, or training, including those outlined in Sections R277-400-7 and 8, during the week.

(4) A school's emergency response plan shall include procedures to notify students, to the extent practicable, who are off campus at the time of a school violence emergency consistent with Subsection 53G-4-402(18)(b)(v).

R277-400-5. Plan Content--Educational Services and Student Supervision and Building Access.

(1) An LEA's plan shall contain measures that assure that school children receive reasonably adequate educational services and supervision during school hours during an emergency and for education services in an extended emergency situation.

(2) An LEA plan shall include evacuation procedures that assure reasonable care and supervision of children until responsibility has been affirmatively assumed by another responsible party.

(a) An LEA or school shall not release children younger than ninth grade age at other than regularly scheduled release times, unless a parent or other responsible person has been notified and assumed responsibility for the children.

(b) An LEA or school may release an older student without such notification if a school official determines that the student is reasonably responsible and notification is not practicable.

(3)(a) An LEA plan, as determined by the LEA board, shall address access to public school buildings by:

(i) students;

(ii) community members;

(iii) lessees;

(iv) invitees; and

(v) others.

(b) An LEA access plan:

(i) may include restricted access for some individuals;

(ii) shall address building access during identified time periods; and

(iii) shall address possession and use of school keys by designated administrators and employees.

(4) An LEA's or school's plan shall identify resources and materials available for emergency training for LEA employees.

R277-400-6. Emergency Preparedness Training for School Occupants.

(1) An LEA's or school's emergency preparedness and emergency response plan shall contain measures which assure that school children receive emergency preparedness training.

(2) LEAs shall provide school children with training appropriate to their ages in rescue techniques, first aid, safety measures appropriate for specific emergencies, and other emergency skills.

(3) During each school year, elementary schools shall conduct emergency drills at least once each month during school time.

(4) LEAs shall alternate one of the following practices or drills with required fire drills:

(a) shelter in place;

(b) earthquake;

(c) lock down or lock out for violence;

(d) bomb threat;

(e) civil disturbance;

(f) flood;

(g) hazardous materials spill;

(h) utility failure;

(i) wind or other types of severe weather;

(j) parent and student reunification;

(k) shelter and mass care for natural and technological hazards; or

(l) an emergency drill appropriate for the particular school location.

(5)(a) Fire drills shall include the complete evacuation of all persons from the school building or the portion of the building used for educational purposes.

(b) An LEA or school may make an exception for the staff member responsible for notifying the local fire emergency contact and handling emergency communications.

(6) All schools shall have one fire drill in the first 10 days of the regular school year.

(7) Elementary schools (grades K-6) shall have at least one fire drill every other month throughout the school year.

(8) In accordance with Section 15A-5-202.5, a secondary school (grades 7-12) shall have:

(a) at least one fire drill every two months throughout the school year; and

(b) one fire drill in the first 10 days of after the beginning of classes.

(9) When required by the local fire chief, an LEA shall notify the local fire department prior to each fire drill.

(10) When a fire alarm system is provided, an LEA shall initiate by activation of the fire alarm system.

(11) Schools that include both elementary and secondary grades in the school shall comply, at a minimum, with the elementary emergency drill requirements.

(12) In cooperation with the LEA's local law enforcement agency, an LEA shall:

(a) establish a parent and student reunification plan for each school within the LEA;

(b) as part of the LEA's registration and enrollment process, annually provide parents a summary of parental expectations and notification procedures related to the LEA's parent and student reunification plan; and

(c) require each school within the LEA to publish the information described in Subsection (12)(b) on the school's website.

R277-400-7. Emergency Response Review and Coordination.

(1) An LEA shall provide an annual training for LEA and school building staff on employees' roles, responsibilities and priorities in the emergency response plan.

(2) An LEA shall require schools to conduct at least one annual drill for school emergencies in addition to drills required under

Section R277-400-6, which shall be held no later than October 1, annually.

(3) An LEA shall require schools to review existing security measures and procedures within their schools and make adjustments as needs demonstrate and funds are available.

(4) An LEA shall develop standards and protections to the extent practicable for participants and attendees at school-related activities, with special attention to those off school property.

(5) An LEA or school shall coordinate with local law enforcement and other public safety representatives in appropriate drills for school safety emergencies.

R277-400-8. Prevention and Intervention.

(1) An LEA shall provide schools, as part of their regular curriculum, comprehensive violence prevention and intervention strategies, such as resource lessons and materials on anger management, conflict resolution, and respect for diversity and other cultures.

(2) As part of a violence prevention and intervention strategy, a school may provide age-appropriate instruction on firearm safety including appropriate steps to take if a student sees a firearm or facsimile in school.

(3) An LEA shall also develop, to the extent resources permit, student assistance programs, such as care teams, school intervention programs, and interagency case management teams.

(4) In developing student assistance programs, an LEA should coordinate with and seek support from other state agencies and the Superintendent.

R277-400-9. Cooperation With Governmental Entities.

(1) As appropriate, an LEA may enter into cooperative agreements with other governmental entities to assure proper coordination and support during emergencies.

(2)(a) An LEA shall cooperate with other governmental entities, as reasonably feasible, to provide emergency relief services.

(b) An LEA's or school's plans required by this rule shall contain procedures for assessing and providing school facilities, equipment, and personnel to meet public emergency needs.

(3) A plan developed under this rule shall delineate communication channels and lines of authority within the LEA, city, county, and state.

(a) The superintendent, is the chief officer for emergencies involving more than one LEA, or for state or federal assistance; and

(b) A local governing board, through its superintendent or director, is the chief officer for LEA emergencies.

R277-400-10. Fiscal Accountability.

(1) An LEA or school plan required under this rule shall address procedures for recording LEA funds expected for emergencies, for assessing and repairing damage, and for seeking reimbursement for emergency expenditures.

R277-400-11. School Carbon Monoxide Detection.

(1) A new educational facility shall have a carbon monoxide detection system installed consistent with International Fire Code (IFC), Chapter 9, Sections 908.7.2.1 through 908.7.2.6.

(2) An existing educational facility shall have a carbon monoxide detection system installed consistent with International Fire Code (IFC), Chapter 11, Section 1103.9.

(3) Where required, an LEA shall provide a carbon monoxide detection system where a fuel-burning appliance, a fuel-burning fireplace, or a fuel-burning forced air furnace is present consistent with IFC 908.7.2.1.

(4) An LEA shall install each carbon monoxide detection system consistent with NFPA 720 and the manufacturer's instructions, and listed systems as complying with UL 2034 and UL 2075.

(5) An LEA shall install each carbon monoxide detection system in the locations specified in NFPA 720.

(6) A combination carbon monoxide/smoke detector is an acceptable alternative to a carbon monoxide detection system if the combination carbon monoxide/smoke detector is listed consistent with UL 2075 and UL 268.

(7)(a) Each carbon monoxide detection system shall receive primary power from the building wiring if the wiring is served from a commercial source.

(b) If primary power is interrupted, a battery shall provide each carbon monoxide detection system with power.

(c) The wiring for a carbon monoxide detection system shall be permanent and without a disconnecting switch other than that required for over-current protection.

(8) An LEA shall maintain all carbon monoxide detection systems consistent with IFC 908.7.2.5 and NFPA 720.

(9) Performance-based alternative design of carbon monoxide detection systems is acceptable consistent with NFPA 720, Section 6.5.4.5.

(10) An LEA shall monitor carbon monoxide detection systems remotely consistent with NFPA 720.

(11) An LEA shall replace a carbon monoxide detection system that becomes inoperable or begins to produce end-of-life signals.

KEY: emergency preparedness, disasters, safety education, [safety]carbon monoxide detectors

Date of Enactment or Last Substantive Amendment: [October 9, 2014]2018

Notice of Continuation: February 13, 2014

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53G-4-402(1)(b)

Education, Administration

R277-419-2

Definitions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43132

FILED: 08/03/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R277-419-2 is updated in response to H.B. 317 from the 2018 General Session.

SUMMARY OF THE RULE OR CHANGE: Section R277-419-2 is updated in response to H.B. 317 from the 2018 General Session which amends eligibility requirements for students with disabilities who turn 22 years old during the school year to continue to receive education services. The amendment to Section R277-419-2 changes the date from September 1 to July 1. This change is needed to update the Board's UTREX system prior to the beginning of the school year.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Section 53G-4-404 and Subsection 53E-3-301(3)(d) and Subsection 53E-3-401(4) and Subsection 53E-3-501(1)(e) and Subsection 53E-3-602(2)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This rule change is not expected to have any fiscal impacts on state government revenues or expenditures. Dates of eligibility for enrollment for students with disabilities was moved back from September to July of each year. Increased costs associated with students being eligible for up to half a year longer was funded during the 2018 General Session.

◆ **LOCAL GOVERNMENTS:** This rule change is not expected to have any fiscal impacts on local governments revenues or expenditures. Dates of eligibility for enrollment for students with disabilities was moved back from September to July of each year. Increased costs associated with students being eligible for up to half a year longer was funded during the 2018 General Session thus local education agencies (local governments) will not be impacted.

◆ **SMALL BUSINESSES:** This rule change is not expected to have any fiscal impacts on small businesses. Dates of eligibility for enrollment for students with disabilities was moved back from September to July of each year. Increased costs associated with students being eligible for up to half a year longer was funded during the 2018 General Session. The change applies to a program for local education agencies and does not affect small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule change is not expected to have any fiscal impacts on persons other than small businesses, businesses, or local government entities. Dates of eligibility for enrollment for students with disabilities was moved back from September to July of each year. Increased costs associated with students being eligible for up to half a year longer was funded during the 2018 General Session. The changes will allow students with disabilities to stay enrolled in a public school until they finish the school year in the year they turn 21. No other impacts to other individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). This rule change applies to program for local education agencies and will not have a fiscal impact on non-small or small businesses. The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Angela Stallings by phone at 801-538-7550, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2018

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0

Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$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

*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 for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses
 There are zero non-small businesses with a NAICS code 611110 (Elementary and Secondary Schools). There are 1,241 entities with a NAICS code 611110 operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which have fewer than 50 employees so qualify as small businesses. Thus, this rule change is not expected to have any fiscal impact on non-small businesses' revenue or expenditures because there are no applicable non-small businesses and it does not require any expenditures of or generate any revenues for non-small businesses.

The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

R277. Education, Administration.

R277-419. Pupil Accounting.

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) Pathways in the eight areas of study.

(3) "Blended learning program" means a program under the direction of an LEA:

(a) where a student learns at least in part:

(i) at a supervised brick and mortar location away from a student's home; and

(ii) through an online delivery; and

(b) that may include some element of student control over time, place, or path, or pace.

(4) "Brick and mortar school" means a traditional school or traditional school building.

(5) "Competency based learning program" means an education program that requires a student to acquire a competency and includes a classroom structure and operation that aid and facilitate the acquisition of specified competencies on an individual basis wherein a student is allowed to master and demonstrate competencies as fast as the student is able.

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

(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.

(8) "Distance learning program" means a program, under the direction of an LEA, in which students receive educational services in a location other than a brick and mortar school, and may include educational services delivered over the internet.

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

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

(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) "Face-to-face learning 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.

(13)(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 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.

(14) "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.

(15)(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.

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

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

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

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

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

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

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

(a) distance learning program;

(b) online learning program;

(c) blended learning program; or

(d) competency based learning program.

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

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

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

(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.

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

(24) "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.

(25) "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 ~~September~~ 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.

(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.

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

(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.

(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.

(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.

(31) "School day" means a minimum of two hours per day per session in kindergarten and a minimum of four hours per day in grades one through twelve, subject to the requirements described in Section R277-419-4.

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

(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 year" means the 12 month period from July 1 through June 30.

(35) "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.

(36) "Self-Contained Resource Attendance Management (SCRAM)" means a record that tracks the aggregate membership of public school special education students for state funding purposes.

(37) "SSID" means Statewide Student Identifier.

(38) "Unexcused absence" means an absence charged to a student when:

(a) the student was not physically present at school at any of the times attendance checks were made in accordance with Subsection R277-419-6(3); 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.

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

(40) "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.

KEY: education finance, school enrollment, pupil accounting

Date of Enactment or Last Substantive Amendment: [December 8, 2017]2018

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

Education, Administration

R277-602

Special Needs Scholarships - Funding and Procedures

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43140

FILED: 08/07/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of Rule R277-602 is to outline responsibilities of a parent, an LEA, an eligible private school, and the Board in providing a choice for a parent of a special needs student who chooses to have a student served in a private school; and provide accountability for the citizenry in the administration and distribution of the scholarship funds. Board of Education Rule R277-602 is amended in response to S.B. 153 from the 2018 General Session, which amended provisions in the Carson Smith Scholarship Program.

SUMMARY OF THE RULE OR CHANGE: Board of Education Rule R277-602 is amended in response to S.B. 153 from the 2018 General Session, which amended provisions in the Carson Smith Scholarship Program. This rule provides standards and procedures for: 1) payments to be distributed to participating private schools; 2) auditing requirements related to the program; and 3) reimbursement requirements for participating private schools when students leave the school mid-school year.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Section 53F-4-305 and Subsection 53E-3-401(4)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** These rule changes are not expected to have any fiscal impact on state government revenues or expenditures because it provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board of Education policies. Updates were also made to update code references changed by the recodification to the public education statute in the 2018 General Session. Rule R277-602 is amended in response to S.B. 153 (2018), which amended provisions in the Carson Smith Scholarship Program. This rule provides standards and procedures for: 1) payments to be distributed to participating private schools; 2) auditing requirements related to the program; and 3) reimbursement requirements for participating private schools when students leave the school mid-school year.

◆ **LOCAL GOVERNMENTS:** These rule changes are not expected to have any fiscal impact on local governments revenues or expenditures because it provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies. Updates were also made to update code references changed by the recodification to the public education statute in the 2018 General Session. Rule R277-602 is amended in response to S.B. 153 (2018), which amended provisions in the Carson Smith Scholarship Program. This rule provides standards and procedures for: 1) payments to be distributed to participating private schools; 2) auditing requirements related to the program; and 3) reimbursement requirements for participating private schools when students leave the school mid-school year.

◆ **SMALL BUSINESSES:** These rule changes are not expected to have any fiscal impact on small business revenues or expenditures because it provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies. Updates were also made to update code references changed by the recodification to the public education statute in the 2018 General Session. Rule R277-602 is amended in response to S.B. 153 (2018), which amended provisions in the Carson Smith Scholarship Program. This rule provides standards and procedures for: 1) payments to be distributed to participating private schools; 2) auditing requirements related to the program; and 3) reimbursement requirements for participating private schools when students leave the school mid-school year.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These rule changes are not expected to have any fiscal impact on persons other than small businesses, businesses, or local government entities or expenditures because it provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies. Updates were also made to update code references changed by the recodification to the public education statute in the 2018 General Session. Rule R277-602 is amended in response to S.B. 153 (2018), which amended provisions in the Carson Smith Scholarship Program. This rule provides standards and procedures for: 1) payments to be distributed

to participating private schools; 2) auditing requirements related to the program; and 3) reimbursement requirements for participating private schools when students leave the school mid-school year.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). These rule changes apply to a program for local education agencies and will not have a fiscal impact on non-small or small businesses. The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Angela Stallings by phone at 801-538-7550, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2018

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$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

*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 for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). This rule change applies to program for local education agencies and will not have a fiscal impact on non-small or small businesses.

The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

R277. Education, Administration.

~~R277-602. Special Needs Scholarships—Funding and Procedures.~~

~~R277-602-1. Authority and Purpose.~~

- ~~(1) This rule is authorized by:~~
 - ~~(a) Utah Constitution Article X, Section 3, which vests general control and supervision of the public school system under the Board;~~
 - ~~(b) 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; and~~
 - ~~(c) Section 53A-1a-707, which authorizes the Board to make rules establishing:~~

- _____ (i) the eligibility of students to participate in the scholarship program; and
- _____ (ii) the application process for the scholarship program.
- _____ (2) The purpose of this rule is to:
 - _____ (a) outline responsibilities of a parent, an LEA, an eligible private school, and the Board in providing choice for a parent of a special needs student who chooses to have a student served in a private school; and
 - _____ (b) provide accountability for the citizenry in the administration and distribution of the scholarship funds.

R277-602-2. Definitions.

- _____ (1) "Appeal" means an opportunity to discuss or contest a final administrative decision consistent with and expressly limited to the procedures of this rule.
- _____ (2) "Appeals Committee" means a committee comprised of:
 - _____ (a) the special needs scholarship coordinator;
 - _____ (b) the Board's Special Education Director;
 - _____ (c) one individual appointed by the Superintendent; and
 - _____ (d) two Board-designated special education advocates.
- _____ (3) "Assessment" means a formal testing procedure carried out under prescribed and uniform conditions that measures a student's academic progress, consistent with Subsection 53A-1a-705(1)(f).
- _____ (4) "Assessment team" means the individuals designated under Subsection 53A-1a-703(1).
- _____ (5) "Days" means school days unless specifically designated otherwise in this rule.
- _____ (6) "Eligible student" means a student who meets the qualifications described in Section 53A-1a-704.
- _____ (7) "Enrollment" means that:
 - _____ (a) the student has completed the school enrollment process;
 - _____ (b) the school maintains required student enrollment information and documentation of age eligibility;
 - _____ (c) the student is scheduled to receive services at the school;
 - _____ (d) the student attends regularly; and
 - _____ (e) the school has accepted the student consistent with Rule R277-419 and the student's IEP.
- _____ (8) "Private school that has previously served a student with a disability" means a school that:
 - _____ (a) has enrolled a student within the last three years under the special needs scholarship program;
 - _____ (b) has enrolled a student within the last three years who has received special education services under an Individual Services Plan (ISP) from an LEA where the school is geographically located; or
 - _____ (c) can provide other evidence to the Board that is determinative of having enrolled a student with a disability within the last three years.
- _____ (9) "Warrant" means payment by check to a private school.

R277-602-3. Parent Responsibilities and Payment Provisions.

- _____ (1) To receive a scholarship, a parent of a student shall submit an application by the deadline described in Subsection 53A-1a-704(4), on a form specified by the Superintendent to:
 - _____ (a) the LEA that the student is or was enrolled in; or
 - _____ (b) if the student was not enrolled in an LEA in the school year prior to the school year in which the scholarship is sought, the school district that is responsible for the education of the student under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1414.

- _____ (2) Along with the application described in Subsection (1), a parent shall submit documentation that:
 - _____ (a) the parent is a resident of the state;
 - _____ (b) the student is at least three years of age before September 2 of the year of enrollment;
 - _____ (c) the student is not more than 21 years of age and has not graduated from high school; and
 - _____ (d) the student has official acceptance at an eligible private school, as described in Section 53A-1a-705.
- _____ (3) Any intentional falsification, misinformation, or incomplete information provided on the application may result in the cancellation of the scholarship to the student and non-payment to the private school.
- _____ (4) The parent shall participate in an assessment team meeting to make the determinations described in Section 53A-1a-704.
- _____ (5)(a) The Superintendent shall make a scholarship payment in accordance with Section 53A-1a-706.
 - _____ (b) A parent shall, consistent with Subsection 53A-1a-706(8), endorse the warrant received by the private school from the Superintendent no more than 15 calendar days after the private school's receipt of the warrant.
- _____ (6)(a) A parent shall notify the Board in writing within five days if the student does not continue in enrollment in an eligible private school for any reason, including:
 - _____ (i) parent or student choice;
 - _____ (ii) suspension or expulsion of the student; or
 - _____ (iii) the student has unexcused absences during all of the prior 10 consecutive school days.
- _____ (b) If a student does not continue in enrollment, the Superintendent may:
 - _____ (i) modify the payment to the private school; or
 - _____ (ii) request reimbursement from the private school if payment has already been made.
- _____ (7) A parent shall cooperate and respond within 10 days to an enrollment cross-checking request from the Superintendent.
- _____ (8) The parent shall notify the Superintendent in writing by May 1 annually to indicate the student's continued enrollment.

R277-602-4. LEA Responsibilities.

- _____ (1) An LEA that receives a student's scholarship application consistent with Subsection 53A-1a-704(4) shall:
 - _____ (a) forward the application to the Superintendent no more than 10 days following receipt of the application;
 - _____ (b) verify enrollment of the student seeking a scholarship in a previous school year within a reasonable time following contact by the Superintendent;
 - _____ (c) verify the existence of the student's IEP and level of service to the Superintendent within a reasonable time;
 - _____ (d) provide personnel to participate on an assessment team to:
 - _____ (i) make the determination described in Section 53A-1a-704; or
 - _____ (ii) determine whether a student who previously received a special needs scholarship is entitled to receive the scholarship during the subsequent eligibility period.
 - _____ (3) A special needs scholarship student may not participate in an extracurricular or co-curricular activity at an LEA, consistent with the parent's assumption of full responsibility for a student's services under Subsection 53A-1a-704(5).

~~(4) An LEA shall cooperate with the Superintendent in cross-checking special needs scholarship student enrollment information to ensure scholarship payments are not erroneously made.~~

~~(5)(a) An LEA shall provide written notice to a parent of a student who has an IEP of the availability of a scholarship to attend a private school in accordance with Subsection 53A-1a-704(10).~~

~~(b) The written notice shall consist of the following statement: A local education agency is required by Utah law, Subsection 53A-1a-704(10), to inform parents of students with IEPs enrolled in public schools, of the availability of a scholarship to attend a private school through the Carson Smith Scholarship Program.~~

R277-602-5. State Board of Education Responsibilities.

~~(1) No later than April 1, the Superintendent shall provide an application containing acknowledgments required under Subsection 53A-1a-704(5), for a parent seeking a special needs scholarship:~~

- ~~(a) online;~~
- ~~(b) at the Board office; and~~
- ~~(c) at LEA offices.~~

~~(2) The Superintendent shall provide a determination that a private school meets the eligibility requirements of Section 53A-1a-705 as soon as possible but no more than 30 calendar days after the private school submits an application and completes documentation of eligibility.~~

~~(3) The Superintendent may:~~

- ~~(a) provide reasonable timelines within the application for satisfaction of private school requirements;~~
- ~~(b) issue letters of warning;~~
- ~~(c) require the school to take corrective action within a time frame set by the Superintendent;~~
- ~~(d) suspend the school from the program consistent with Section 53A-1a-708;~~

~~(e) establish an appropriate penalty for a private school that fails to comply with requirements described in Title 53A, Chapter 1a, Part 7, Carson Smith Scholarships for Students with Special Needs, including:~~

- ~~(i) providing an affidavit under Section 53A-1a-708;~~
- ~~(ii) administering assessments or reporting an assessment to a parent or assessment team under Subsection 53a-1a-705(1)(f);~~
- ~~(iii) employing teachers with credentials required under Subsection 53A-1a-705(g);~~
- ~~(iv) providing to a parent relevant credentials of teachers under Subsection 53A-1a-705(i); or~~
- ~~(v) requiring a completed criminal background and ongoing monitoring under Title 53A, Chapter 15, Part 15, Background Checks and take appropriate action consistent with information received; or~~
- ~~(f) initiate a complaint and hold an administrative hearing, as appropriate, and consistent with this rule.~~

~~(4) The Superintendent shall make a list of eligible private schools updated annually and available no later than June 1 of each year.~~

~~(5) On or before July 1, the Superintendent shall annually publish information regarding the level of funding available for scholarships for the fiscal year.~~

~~(6) The Superintendent shall mail a scholarship payment directly to a private school in accordance with Subsection 53A-1a-706(8) as soon as reasonably possible.~~

~~R277-602-6. Responsibilities of Private Schools that Receive Special Needs Scholarships.~~

~~(1) To be eligible to enroll a scholarship student, a private school shall:~~

- ~~(a) meet the criteria described in Section 53A-1a-705; and~~
- ~~(b) submit an application and appropriate documentation by the deadline established in Section 53A-1a-705 to the Superintendent on a form designated by the Superintendent.~~

~~(2) A licensed independent certified public accountant that a private school contracts with to determine whether the private school has adequate working capital in accordance with Section 53A-1a-705 shall define adequate working capital as a working capital ratio of greater than one calculated by dividing current assets by current liabilities:~~

~~(3)(a) A private school that seeks to enroll a special needs scholarship student shall, in concert with the parent seeking a special needs scholarship for a student, initiate the assessment team meetings required under Section 53A-1a-704.~~

~~(b) A private school shall schedule a meeting at a time and location mutually acceptable to the private school, the applicant parent, and participating public school personnel.~~

~~(c)(i) A private school and public school shall confidentially maintain documentation regarding an assessment team meeting, including documentation of:~~

- ~~(A) a meeting for a student denied a scholarship or service; and~~
- ~~(B) a student admitted into a private school and the student's level of service.~~

~~(ii) Upon request by the Superintendent, a private school and public school shall provide the documentation described in Subsection (3)(c)(i) to the Superintendent for purposes of determining student scholarship eligibility or for verification of compliance.~~

~~(4) A private school that receives a scholarship payment shall provide complete student records in a timely manner to another private school or a public school that requests student records if a parent transfers a student under Subsection 53A-1a-704(7).~~

~~(5) A private school shall notify the Board within five days if the student does not continue in enrollment in an eligible private school for any reason, including:~~

- ~~(a) parent or student choice;~~
- ~~(b) suspension or expulsion of the student; or~~
- ~~(c) the student has unexcused absences during all of the prior ten consecutive school days.~~

~~(6) A private school shall satisfy health and safety laws and codes required by Subsection 53A-1a-705(1)(d), including:~~

- ~~(a) the adoption of emergency preparedness response plans that include training for school personnel and parent notification for fire drills, natural disasters, and school safety emergencies; and~~
- ~~(b) compliance with Rule R392-200, Design, Construction, Operation, Sanitation, and Safety of Schools.~~

~~(7)(a) An approved eligible private school that changes ownership shall submit a new application for eligibility to receive a special needs scholarship payment from the Superintendent:~~

- ~~(i) that demonstrates that the school continues to meet the eligibility requirements of Section 53A-1a-705 and this rule; and~~
- ~~(ii) within 60 calendar days of the date that an agreement is signed between previous owner and new owner.~~

~~_____ (b) If the Superintendent does not receive the application within the time described in Subsection (7)(a)(ii):~~

~~_____ (i) the new owner of the school is presumed ineligible to receive continued special needs scholarship payments from the Superintendent;~~

~~_____ (ii) at the discretion of the Board, the Superintendent may reclaim any payments made to a school within the previous 60 calendar days; and~~

~~_____ (iii) the private school shall submit a new application for eligibility to enroll special needs scholarship students consistent with the requirements and timelines of this rule.~~

R277-602-7. Special Needs Scholarship Appeals.

~~_____ (1)(a) A parent of an eligible student or a parent of a prospective eligible student may appeal only the following actions under this rule:~~

~~_____ (i) an alleged violation by the Superintendent of Sections 53A-1a-701 through 710 or this rule; or~~

~~_____ (ii) an alleged violation by the Superintendent of a required timeline.~~

~~_____ (b) An appellant has no right to additional elements of due process beyond the specific provisions of this rule.~~

~~_____ (2) The Appeals Committee may not grant an appeal contrary to Sections 53A-1a-701 through 53A-1a-710.~~

~~_____ (3) A parent shall submit an appeal:~~

~~_____ (a) in writing to the Board's Special Needs Scholarship Coordinator at: Utah State Board of Education, 250 East 500 South, P.O. Box 144200, Salt Lake City, UT 84114-4200; and~~

~~_____ (b) within 15 calendar days of written notification of the final administrative action described in Subsection (1)(a).~~

~~_____ (4)(a) The appeal opportunity does not include an investigation required under or similar to an IDEA state complaint investigation.~~

~~_____ (b) Nothing in the appeals process established under this rule shall be construed to limit, replace, or adversely affect parental appeal rights available under IDEA.~~

~~_____ (5) The Appeals Committee shall:~~

~~_____ (a) consider an appeal within 15 calendar days of receipt of the written appeal;~~

~~_____ (b) transmit the decision to a parent no more than ten calendar days following consideration by the Appeals Committee; and~~

~~_____ (c) finalize an appeal as expeditiously as possible in the joint interest of schools and students involved.~~

~~_____ (6) The Appeals Committee's decision is a final administrative action.]~~

R277-602. Carson Smith Scholarships -- Funding and Procedures.

R277-602-1. Authority and Purpose.

~~_____ (1) This rule is authorized by:~~

~~_____ (a) Utah Constitution Article X, Section 3, which vests general control and supervision of the public school system under 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-4-305, which authorizes the Board to make rules establishing:~~

~~_____ (i) the eligibility of students to participate in the scholarship program; and~~

~~_____ (ii) the application process for the scholarship program.~~

~~_____ (2) The purpose of this rule is to:~~

~~_____ (a) outline responsibilities of a parent, an LEA, an eligible private school, and the Board in providing choice for a parent of a special needs student who chooses to have a student served in a private school; and~~

~~_____ (b) provide accountability for the citizenry in the administration and distribution of the scholarship funds.~~

R277-602-2. Definitions.

~~_____ (1) "Appeal" means an opportunity to discuss or contest a final administrative decision consistent with and expressly limited to the procedures of this rule.~~

~~_____ (2) "Appeals Committee" means a committee comprised of:~~

~~_____ (a) the Carson Smith Scholarship coordinator;~~

~~_____ (b) the Board's Special Education Director;~~

~~_____ (c) one individual appointed by the Superintendent; and~~

~~_____ (d) two Board-designated special education advocates.~~

~~_____ (3) "Assessment" means a formal testing procedure carried out under prescribed and uniform conditions that measures a student's academic progress, consistent with Subsection 53F-4-303(1)(f).~~

~~_____ (4) "Assessment team" means the individuals designated under Subsection 53F-4-301(1).~~

~~_____ (5) "Days" means school days unless specifically designated otherwise in this rule.~~

~~_____ (6) "Eligible student" means a student who meets the qualifications described in Section 53F-4-302.~~

~~_____ (7) "Enrollment" means that:~~

~~_____ (a) the student has completed the school enrollment process;~~

~~_____ (b) the school maintains required student enrollment information and documentation of age eligibility;~~

~~_____ (c) the student is scheduled to receive services at the school;~~

~~_____ (d) the student attends regularly; and~~

~~_____ (e) the school has accepted the student consistent with Rule R277-419 and the student's IEP.~~

~~_____ (8) "Private school that has previously served a student with a disability" means a school that:~~

~~_____ (a) has enrolled a student within the last three years under the Carson Smith Scholarship program;~~

~~_____ (b) has enrolled a student within the last three years who has received special education services under an Individual Services Plan (ISP) from an LEA where the school is geographically located; or~~

~~_____ (c) can provide other evidence to the Board that is determinative of having enrolled a student with a disability within the last three years.~~

~~_____ (9) "Warrant" means payment by check to a private school.~~

R277-602-3. Parent Responsibilities and Payment Provisions.

~~_____ (1) To receive a scholarship, a parent of a student shall submit an application by the deadline described in Subsection 53F-4-302(4), on a form specified by the Superintendent to:~~

~~_____ (a) the LEA that the student is or was enrolled in; or~~

(b) if the student was not enrolled in an LEA in the school year prior to the school year in which the scholarship is sought, the school district that is responsible for the education of the student under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1414.

(2) Along with the application described in Subsection (1), a parent shall submit documentation that:

(a) the parent is a resident of the state;

(b) the student is at least three years of age before September 2 of the year of enrollment;

(c) the student is not more than 21 years of age and has not graduated from high school; and

(d) the student has official acceptance at an eligible private school, as described in Section 53F-4-303.

(3) Any intentional falsification, misinformation, or incomplete information provided on the application may result in the cancellation of the scholarship to the student and non-payment to the private school.

(4)(a) The Superintendent shall make a scholarship payment in accordance with Section 53F-4-304 and this rule.

(b) The Superintendent may distribute a scholarship payment to a private school through electronic transfer after the Superintendent is able to verify the scholarship student's attendance at the private school through a Board provided software application.

(5)(a) A parent shall notify the Board in writing within five days if the student does not continue in enrollment in an eligible private school for any reason, including:

(i) parent or student choice;

(ii) suspension or expulsion of the student; or

(iii) the student has unexcused absences during all of the prior 10 consecutive school days.

(b) In accordance with Subsection 53F-4-304(4), if a student does not continue in enrollment, the Superintendent may:

(i) modify the payment to the private school; or

(ii) if payment has already been made for that quarter, request reimbursement from the private school for an amount equal to the portion of the scholarship attributable to the number of remaining days in the quarter.

(6) A parent shall cooperate and respond within 10 days to an enrollment cross-checking request from the Superintendent.

(7) The parent shall notify the Superintendent in writing by May 1 annually to indicate the student's continued enrollment.

R277-602-4. LEA Responsibilities.

(1) An LEA that receives a student's scholarship application consistent with Subsection 53F-4-302(4) shall:

(a) forward the application to the Superintendent no more than 10 days following receipt of the application;

(b) verify enrollment of the student seeking a scholarship in a previous school year within a reasonable time following contact by the Superintendent;

(c) verify the existence of the student's IEP and level of service to the Superintendent within a reasonable time;

(d) provide personnel to participate on an assessment team to:

(i) make the determination described in Section 53F-4-302; or

(ii) determine whether a student who previously received a Carson Smith Scholarship is entitled to receive the scholarship during the subsequent eligibility period.

(3) A Carson Smith Scholarship student may not participate in an extracurricular or co-curricular activity at an LEA, consistent with the parent's assumption of full responsibility for a student's services under Subsection 53F-4-302(5).

(4) In accordance Subsection 53F-4-302(8), a Carson Smith Scholarship student may participate in the Statewide Online Education Program described in Part 5, Statewide Online Education Program in the same manner as other private school students as described in Section 53F-4-507.

(5) A Carson Smith Scholarship student is eligible to receive equitable services under the Individuals with Disabilities Education Act.

(6) An LEA shall cooperate with the Superintendent in cross-checking Carson Smith Scholarship student enrollment information to ensure scholarship payments are not erroneously made.

(7)(a) An LEA shall provide written notice to a parent of a student who has an IEP of the availability of a scholarship to attend a private school in accordance with Subsection 53F-4-302(10).

(b) The written notice shall consist of the following statement: A local education agency is required by Utah law, Subsection 53F-4-302(10), to inform parents of students with IEPs enrolled in public schools, of the availability of a scholarship to attend a private school through the Carson Smith Scholarship Program.

R277-602-5. State Board of Education Responsibilities.

(1) No later than April 1, the Superintendent shall provide an application containing acknowledgments required under Subsection 53F-4-302(5), for a parent seeking a Carson Smith Scholarship:

(a) online;

(b) at the Board office; and

(c) at LEA offices.

(2) The Superintendent shall provide a determination that a private school meets the eligibility requirements of Section 53F-4-303 as soon as possible but no more than 30 calendar days after the private school submits an application and completes documentation of eligibility.

(3) The Superintendent may:

(a) provide reasonable timelines within the application for satisfaction of private school requirements;

(b) issue letters of warning;

(c) require the school to take corrective action within a time frame set by the Superintendent;

(d) suspend the school from the program consistent with Section 53F-4-306;

(e) establish an appropriate penalty for a private school that fails to comply with requirements described in Title 53F, Chapter 4, Part 3, Carson Smith Scholarships for Students with Special Needs, including:

(i) providing an affidavit under Section 53F-4-306;

(ii) administering assessments or reporting an assessment to a parent or assessment team under Subsection 53F-4-303(1)(f);

(iii) employing teachers with credentials required under Subsection 53F-4-303(g);

(iv) providing to a parent relevant credentials of teachers under Subsection 53F-4-303(i); or

(v) requiring a completed criminal background and ongoing monitoring under Title 53G, Chapter 11, Part 4, Background Checks and take appropriate action consistent with information received; or

(f) initiate a complaint and hold an administrative hearing, as appropriate, and consistent with this rule.

(4) The Superintendent shall make a list of eligible private schools updated annually and available no later than June 1 of each year.

(5) On or before July 1, the Superintendent shall annually publish information regarding the level of funding available for scholarships for the fiscal year.

(6) The Superintendent may mail a scholarship payment directly to a private school in accordance with Subsection 53F-4-304(8) as soon as reasonably possible.

R277-602-6. Responsibilities of Private Schools that Receive Carson Smith Scholarships.

(1) To be eligible to enroll a scholarship student, a private school shall:

(a) meet the criteria described in Section 53F-4-303; and

(b) submit an application and appropriate documentation by the deadline established in Section 53F-4-303 to the Superintendent on a form designated by the Superintendent.

(2) A private school shall annually:

(a) obtain an audit and report from a licensed independent certified public accountant that conforms with the following requirements:

(i) the audit shall be performed in accordance with generally accepted auditing standards;

(ii) the financial statements shall be presented in accordance with generally accepted accounting principles; and

(iii) the audited financial statements shall be as of a period within the last 12 months; or

(b) contract with an independent licensed certified public accountant to conduct an agreed upon procedures engagement described in Subsection (4);

(3) The Superintendent shall annually publish:

(a) an agreed upon procedures document for a new private school to apply for eligibility to accept Carson Smith Scholarship students; and

(b) an agreed upon procedures document for a continuing private school to apply for continued eligibility to accept Carson Smith Scholarship students.

(4) A private school that seeks to enroll Carson Smith Scholarship students shall submit an agreed upon procedures document described in Subsection (3):

(a) for a new private school seeking eligibility to accept Carson Smith Scholarship students for the first time, by the May 1 prior to the fiscal year that the private school is seeking eligibility; and

(b) for a school seeking continued eligibility to accept Carson Smith Scholarship students, by the November 30 prior to the school year in which they are reapplying.

(5)(a) A private school that seeks to enroll a Carson Smith Scholarship student shall, in concert with the parent seeking a Carson Smith Scholarship for a student, initiate the assessment team meetings required under Section 53F-4-302.

(b) A private school shall schedule a meeting at a time and location mutually acceptable to the private school, the applicant parent, and participating public school personnel.

(c)(i) A private school and public school shall confidentially maintain documentation regarding an assessment team meeting, including documentation of:

(A) a meeting for a student denied a scholarship or service; and

(B) a student admitted into a private school and the student's level of service.

(ii) Upon request by the Superintendent, a private school and public school shall provide the documentation described in Subsection (3)(c)(i) to the Superintendent for purposes of determining student scholarship eligibility or for verification of compliance.

(6) A private school that receives a scholarship payment shall provide complete student records in a timely manner to another private school or a public school that requests student records if a parent transfers a student under Subsection 53F-4-302(7).

(7) A private school shall notify the Board within five days if the student does not continue in enrollment in an eligible private school for any reason, including:

(a) parent or student choice;

(b) suspension or expulsion of the student; or

(c) the student has unexcused absences during all of the prior ten consecutive school days.

(8) A private school shall satisfy health and safety laws and codes required by Subsection 53F-4-303(1)(d), including:

(a) the adoption of emergency preparedness response plans that include training for school personnel and parent notification for fire drills, natural disasters, and school safety emergencies; and

(b) compliance with Rule R392-200, Design, Construction, Operation, Sanitation, and Safety of Schools.

(9)(a) An approved eligible private school that changes ownership shall submit a new application for eligibility to receive a Carson Smith Scholarship payment from the Superintendent:

(i) that demonstrates that the school continues to meet the eligibility requirements of Section 53F-4-303 and this rule; and

(ii) within 60 calendar days of the date that an agreement is signed between previous owner and new owner.

(b) If the Superintendent does not receive the application within the time described in Subsection (7)(a)(ii):

(i) the new owner of the school is presumed ineligible to receive continued Carson Smith Scholarship payments from the Superintendent;

(ii) at the discretion of the Board, the Superintendent may reclaim any payments made to a school within the previous 60 calendar days; and

(iii) the private school shall submit a new application for eligibility to enroll Carson Smith Scholarship students consistent with the requirements and timelines of this rule.

R277-602-7. Carson Smith Scholarship Appeals.

(1)(a) A parent of an eligible student or a parent of a prospective eligible student may appeal only the following actions under this rule:

(i) an alleged violation by the Superintendent of Sections 53F-4-301 through 308 or this rule; or

(ii) an alleged violation by the Superintendent of a required timeline.

(b) An appellant has no right to additional elements of due process beyond the specific provisions of this rule.

(2) The Appeals Committee may not grant an appeal contrary to Sections 53F-4-301 through 53F-4-308.

(3) A parent shall submit an appeal:

(a) in writing to the Board's Carson Smith Scholarship Coordinator at: Utah State Board of Education, 250 East 500 South, P.O. Box 144200, Salt Lake City, UT 84114-4200; and

(b) within 15 calendar days of written notification of the final administrative action described in Subsection (1)(a).

(4)(a) The appeal opportunity does not include an investigation required under or similar to an IDEA state complaint investigation.

(b) Nothing in the appeals process established under this rule shall be construed to limit, replace, or adversely affect parental appeal rights available under IDEA.

(5) The Appeals Committee shall:

(a) consider an appeal within 15 calendar days of receipt of the written appeal;

(b) transmit the decision to a parent no more than ten calendar days following consideration by the Appeals Committee; and

(c) finalize an appeal as expeditiously as possible in the joint interest of schools and students involved.

(6) The Appeals Committee's decision is a final administrative action.

KEY: special needs students, scholarships

Date of Enactment or Last Substantive Amendment: [February 7, 2017]2018

Notice of Continuation: August 13, 2015

Authorizing, and Implemented or Interpreted Law: Art X Sec 3[; 53A-1a-707; 53A-1-401]; 53E-3-401(4); 53F-4-3

Education, Administration

R277-718

Out-of-School Time Program Quality Improvement Grants

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43139

FILED: 08/07/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to outline grant procedures, including: 1) an application procedure; 2) criteria and procedures for awarding grants; and 3) requirements for grant recipients.

SUMMARY OF THE RULE OR CHANGE: In the 2018 General Session, S.B. 202 created a grant program for after school programs. Rule R277-718 is proposed to initiate the oversight of the grant program.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Section 53F-5-210 and Subsection 53E-3-401(4)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** This is a new rule that establishes guidelines for the Educational Improvement Opportunities Outside of the Regular School Day Grant Program created in the 2018 General Session by Section 53F-5-210. This rule provides criteria, standards, and procedures for: 1) awarding grants; 2) grant recipients and matching requirements, accountability, and reporting; and 3) monitoring and reimbursement procedures. Funds were appropriated in the legislative session, \$125,000, for the grant program. No further state fiscal impact.

♦ **LOCAL GOVERNMENTS:** This is a new rule that establishes guidelines for the Educational Improvement Opportunities Outside of the Regular School Day Grant Program created in the 2018 General Session by Section 53F-5-210. This rule provides criteria, standards, and procedures for: 1) awarding grants; 2) grant recipients and matching requirements, accountability, and reporting; and 3) monitoring and reimbursement procedures. Funds were appropriated in the legislative session, \$125,000, for the grant program. School districts and charter schools may receive up to \$125,000 in total statewide and may be required to expend or provide evidence of private funds used to match. Match statewide would be no more than \$125,000.

♦ **SMALL BUSINESSES:** This is a new rule that establishes guidelines for the Educational Improvement Opportunities Outside of the Regular School Day Grant Program created in the 2018 General Session by Section 53F-5-210. This rule provides criteria, standards, and procedures for: 1) awarding grants; 2) grant recipients and matching requirements, accountability, and reporting; and 3) monitoring and reimbursement procedures. Funds were appropriated in the legislative session, \$125,000, for the grant program. School districts and charter schools may receive up to \$125,000 in total statewide and may be required to expend or provide evidence of private funds used to match. Match statewide would be no more than \$125,000. No impact on small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This is a new rule that establishes guidelines for the Educational Improvement Opportunities Outside of the Regular School Day Grant Program created in the 2018

General Session by Section 53F-5-210. This rule provides criteria, standards, and procedures for: 1) awarding grants; 2) grant recipients and matching requirements, accountability, and reporting; and 3) monitoring and reimbursement procedures. Funds were appropriated in the legislative session, \$125,000, for the grant program. School districts and charter schools may receive up to \$125,000 in total statewide and may be required to expend or provide evidence of private funds used to match. Match statewide would be no more than \$125,000. No impact on other persons, unless they elect to participate and provide the required match to the LEA who receives the grants.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). This rule change applies to program for local education agencies and will not have a fiscal impact on non-small or small businesses. The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Angela Stallings by phone at 801-538-7550, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2018

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$0	\$0	\$0

Local Government	\$125,000	\$125,000	\$125,000
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$125,000	\$125,000	\$125,000
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$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

*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 for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). This proposed rule applies to a program for local education agencies and will not have a fiscal impact on non-small or small businesses.

The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

R277. Education, Administration.

R277-718. Out-of-School Time Program Quality Improvement Grants.

R277-718-1. 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-5-210, which creates a grant program for out-of-school time programs, and requires the Board to adopt rules to administer the grant program.

(2) The purpose of this rule is to outline grant procedures, including:

(a) an application procedure;

(b) criteria and procedures for awarding grants; and

(c) requirements for grant recipients.

R277-718-2. Definitions.

(1) "Assessment tool" means the same as defined in R277-715.

(2) "Grant program" means the Educational Improvement Opportunities Outside of the Regular School Day Grant Program established in Section 53F-5-210.

(3) "Participating program" means the same as defined in R277-715

(4) "Private matching funds" does not include funds from federal, state, or local government sources.

(5) "Quality observation process" means a process in which a trained and certified specialist observes a participating program that is awarded funds under the grant program, using a valid observation tool, on the extent to which the program is implementing the standards described in R277-715-3.

R277-718-3. Grant Applications.

(1) The Superintendent shall create an application consistent with the provisions of Subsection 53F-5-210(4), and make the application available to participating programs operated by LEAs.

(2) The application shall require the LEA to provide evidence and report how it intends to provide the matching private funds required in Subsection 53F-5-210(7), including the source of funding the LEA intends to use.

(3) For each year the Superintendent is authorized to solicit grant applications, the Superintendent shall publish a timeline, and include a date for the application release, due dates for an LEA to submit required materials, and anticipated timeframes for evaluation to participating programs operated by LEAs through the Board's enterprise grant management system.

R277-718-4. Procedures and Criteria for Awarding Grants.

(1) In accordance with Subsection 53F-5-210(5), the Superintendent shall evaluate LEA program proposals on:

(a) the percentage of students in the program who qualify for free or reduced-price lunch;

(b)(i) evidence that the LEA has dedicated private matching funds to support the LEA's grant funding request; or

(ii) provide assurances that the LEA will obtain private matching funds to support the LEA's grant funding request;

(c) the extent to which the program has participated in the assessment tool;

(d) the program's commitment to implementing the quality observation process and reporting timely results to the

Superintendent;

(e) whether the program intends to spend grant funds on activities, purposes, or interventions that have a likelihood of improving student academic performance; and

(f) the extent to which the program has engaged in and implemented a program needs assessment for purposes of identifying gaps that may be addressed by funding.

(2) A program shall receive priority points or additional weighting for a higher percentage of students in the program who qualify for free or reduced-price lunch.

(3) The Superintendent may not distribute grant funds until the LEA has certified that the LEA has obtained the private matching funds in an amount that is equal to or more than the grant funds.

R277-718-5. Grant Recipient Requirements, Accountability, and Reporting.

(1) An LEA that receives funding under the grant program shall target grant funds to expenditures that are likely to have a positive effect on the quality of the program, such as highly-qualified staff, specific professional development or training for staff, or evidence-based curriculum.

(2) LEAs shall submit reimbursement requests to claim grant funds.

(3) An LEA grant recipient shall participate in the quality observation process to assess the quality of the program.

(4) To determine the impact of the program on the academic performance of participating students, the Superintendent shall use statewide assessments.

(5) An LEA grant recipient shall report to the Superintendent:

(a) the average daily attendance of regularly participating students;

(b) the types of interventions that program recipients received on the days they attended the program; and

(c) the amount of services received by participating students, grouped by:

(i) 30 days;

(ii) 30-59 days;

(iii) 60-89 days; and

(iv) more than 90 days.

(6) An LEA grant recipient shall report the data described in Subsection (4) to the Superintendent in:

(a) a mid-year report by Dec 31; and

(b) an end-of-year report by May 31.

(7) LEAs that receive grant funds may be required to provide evidence to the Superintendent that the private matching funds were obtained and expended for the same purposes as the activities supported by these state funds.

(8) LEAs that receive grant funds are subject to fiscal and programmatic monitoring to validate uses of funds and programmatic performance and outcomes annually.

KEY: grant program, application procedures, reporting, assessments

Date of Enactment or Last Substantive Amendment: 2018 Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53F-5-210

Governor, Economic Development
R357-22
Rural Employment Expansion Program
Rule

NOTICE OF PROPOSED RULE

(New Rule)
 DAR FILE NO.: 43152
 FILED: 08/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 390, passed by the Legislature during the 2018 General Session, created the Rural Employment Expansion Program (Program). The new statutory language permits the Office of Economic Development (Office) to promulgate rules to administer the Program. The purpose of this rule filing is to clarify the standards for participation in the Program.

SUMMARY OF THE RULE OR CHANGE: Section R357-22-102 creates definitions that will be used to administer the Program. Section R357-22-103 references the authority granted in the statutory language that grants rulewriting authority. Section R357-22-104 outlines the form and content of the application for participation in the Program. Section R357-22-105 establishes the minimum documentation required to demonstrate the creation of new full-time positions. Section R357-22-106 establishes the appeal process for contesting the Office's analysis of the creation of new full-time positions. Section R357-22-107 codifies various requirements for the administration of the Program.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63N-4-403(2)(c)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The purpose of this proposed rule is to implement H.B. 390 (2018), and costs or savings were included in the Legislature's consideration of the bill. A copy of this fiscal analysis is available from the Utah State Legislature website at: <https://le.utah.gov/~2018/bills/static/HB0390.html>.

◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings created by this proposed rule related to local governments. The purpose of this proposed rule is to implement H.B. 390 (2018), and costs or savings were included in the Legislature's consideration of the bill. A copy of this fiscal analysis is available from the Utah State Legislature website at: <https://le.utah.gov/~2018/bills/static/HB0390.html>.

◆ **SMALL BUSINESSES:** There are no anticipated costs or savings created by this proposed rule related to small businesses. The purpose of this proposed rule is to implement H.B. 390 (2018), and costs or savings were

included in the Legislature's consideration of the bill. A copy of this fiscal analysis is available from the Utah State Legislature website at: <https://le.utah.gov/~2018/bills/static/HB0390.html>.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings created by this proposed rule related to other persons. The purpose of this proposed rule is to implement H.B. 390 (2018), and costs or savings were included in the Legislature's consideration of the bill. A copy of this fiscal analysis is available from the Utah State Legislature website at: <https://le.utah.gov/~2018/bills/static/HB0390.html>.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated costs or savings created by this proposed rule related to affected persons. The purpose of this proposed rule is to implement H.B. 390 (2018), and costs or savings were included in the Legislature's consideration of the bill. A copy of this fiscal analysis is available from the Utah State Legislature website at: <https://le.utah.gov/~2018/bills/static/HB0390.html>.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This new rule implements H.B. 390 (2018) which created the Rural Employment Expansion Program. The purpose of this rule is to clarify the standards for participation in the Program. This rule will have no impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

GOVERNOR
 ECONOMIC DEVELOPMENT
 60 E SOUTH TEMPLE 3RD FLR
 SALT LAKE CITY, UT 84111
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Dane Ishihara by phone at 801-538-8895, or by Internet E-mail at dishihara@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2018

AUTHORIZED BY: Val Hale, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0

Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$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

*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 for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

There is no regulatory impact creating financial cost to small businesses, non-small businesses, or other persons. The proposed rule is to clarify the standards for participation in the program. There are no general regulations being promulgated by this rule because the Program is voluntary and does not require non-participants to do anything. There is no impact to businesses or persons general because this rule only applies to those who chose to participate in this Program in order to receive a grant.

**R357. Governor, Economic Development.
R357-22. Rural Employment Expansion Program.**

R357-22-101. Title.

This rule is known as the "Rural Employment Expansion Program Rule."

R357-22-102. Definitions.

In addition to the terms defined in 63N-4-402, the following terms are defined as follows:

(1) "At least 12 consecutive months", as used in Subsection 63N-4-402(3)(b), includes a new full-time employee position that is vacated within the eligible employment period and is filled within 15 business days of the position being vacated.

(2) "Eligible employment period" means an employee filling a new full-time employee position has worked for at least 12 consecutive months.

(3) "REDI", Rural Economic Development Incentives, means the same as the Rural Employment Expansion Program.

(4) "Taxable year", as used in Subsection 63N-4-402(3), means the previous calendar year unless the business entity demonstrates extenuating circumstances that justifies adopting a different timeframe.

R357-22-103. Authority.

This rule is adopted by the office under the authority of Subsection 63N-4-403(2)(c).

R357-22-104. Form and Content of Application for Rural Employment Expansion Program Participation.

(1) The content of the application for a rural employment expansion grant shall, at minimum, include the business entity's:

- (a) name;
- (b) physical address;
- (c) telephone number;
- (d) email address;
- (e) Federal EIN number;
- (f) primary NAICS code;
- (g) vendor number, if the applicant is a registered vendor with the State of Utah;

(h) requested rural employment expansion grant amount; and

- (i) forecasted;
- (ii) number of new full-time positions;
- (iii) wage of new full-time employee positions;
- (iv) hire date of new full-time employee positions.

(2) The following documents shall, at minimum, be included in each application for participation in the program:

- (a) copy of current W-9 form; and
- (b) two most recent Form 33H - Utah Employer Quarterly Wage List and Contribution Reports

R357-22-105. Documentation Required to Demonstrate the Creation of New Full-Time Positions.

(1) The following documents shall, at minimum, be included when a business entity demonstrates the creation of new full-time positions:

(a) employee pay stubs including pay stubs at 6-month, calendar year-end, and last pay period following completion of the eligible employment period showing the:

- (i) name of new employee;
- (ii) year-to-date salary of new employee;
- (iii) date;
- (iv) address;
- (v) benefits (if any);

(b) address of work location if different from address of pay stub;

(c) one or more reports that show each employee on at least one Form 33H - Utah Employer Quarterly Wage List and Contribution Report, unemployment insurance quarterly report;

(d) Form 33H - Utah Employer Quarterly Wage List and Contribution Report for the last quarter of the eligible employment period.

R357-22-106. Documentation Required to Demonstrate the Creation of New Full-Time Positions -- Appeal Process.

(1) If, after a review of the documentation required to demonstrate the creation of a new full-time positions is inadequate the office shall:

(a) deny the request for a rural employment expansion grant; or

(b) inform the business entity that the documentation is inadequate and ask the business entity to submit additional documentation.

(2) If the office denies the request for a rural employment expansion grant the business entity may appeal the denial to the office, in writing, within 20 business days of the denial notice date.

(3) The office shall review any appeal within 20 business days and make a final determination of the business entity's request for a rural employment expansion grant.

R357-22-107. Administration of the Rural Employment Expansion Grant.

(1) From the date of entering a written agreement, as described in Subsection 63N-4-404 (3), the business entity shall have six months to hire an employee to fill any new full-time employee positions.

(2) The business entity shall provide the documentation required to demonstrate the creation of new full-time positions within 90-days of the completion of all eligible employment periods for the new full-time positions.

(3) New full-time employee positions that qualify for the Rural Employment Expansion Grant are not eligible to be counted as eligible positions for the Rural Fast Track and/or the Enterprise Zone programs.

(4) The business entity shall verify that newly hired employees are legal U.S. Citizens or meet eligible non-citizen requirements (employer must use the E-Verify and keep a record of citizen documentation on hand).

KEY: rural employment expansion, economic development
Date of Enactment or Last Substantive Amendment: 2018
Authorizing, and Implemented or Interpreted Law: 63N-4-403(2)(c)

Governor, Economic Development
R357-23
Business Expansion and Retention
Initiative Rule

NOTICE OF PROPOSED RULE
 (New Rule)

DAR FILE NO.: 43149
 FILED: 08/13/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B 212, passed by the Legislature during the 2018 General Session, created the Business Expansion and Retention Initiative. The new statutory language permits the Office of Economic Development (Office) to promulgate rules to administer the program. The purpose of this rule filing is to clarify the standards for participation in the program.

SUMMARY OF THE RULE OR CHANGE: Section R357-23-102 creates definitions that will be used to administer the program. Section R357-23-103 references the authority granted in the statutory language that permits rulewriting authority. Section R357-23-104 outlines the content of the application for participation in the program. Section R357-23-105 clearly establishes that participation in the application

process and approval to participate in the program does not guarantee grant funding. Section R357-23-105 codifies activities, in addition to those outlined in Subsection 63N-3-104.5(7)(a), a rural economic development entity shall use grants funds for.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63N-3-104.5(5)(b)(ii)(c) and Subsection 63N-3-104.5(7)(b)

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: The purpose of this proposed rule is to implement H.B 212 (2018), and costs or savings were included in the Legislature's consideration of the bill. A copy of this fiscal analysis is available from the Utah State Legislature website at: <https://le.utah.gov/~2018/bills/static/HB0212.html>.

♦ LOCAL GOVERNMENTS: There are no anticipated costs or savings created by this proposed rule related to local governments. The purpose of this proposed rule is to implement H.B 212 (2018), and costs or savings were included in the Legislature's consideration of the bill. A copy of this fiscal analysis is available from the Utah State Legislature website at: <https://le.utah.gov/~2018/bills/static/HB0212.html>.

♦ SMALL BUSINESSES: There are no anticipated costs or savings created by this proposed rule related to small businesses. The purpose of this proposed rule is to implement H.B 212 (2018), and costs or savings were included in the Legislature's consideration of the bill. A copy of this fiscal analysis is available from the Utah State Legislature website at: <https://le.utah.gov/~2018/bills/static/HB0212.html>.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no anticipated costs or savings created by this proposed rule related to other persons. The purpose of this proposed rule is to implement H.B 212 (2018), and costs or savings were included in the Legislature's consideration of the bill. A copy of this fiscal analysis is available from the Utah State Legislature website at: <https://le.utah.gov/~2018/bills/static/HB0212.html>.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated costs or savings created by this proposed rule related to the affected persons. The purpose of this proposed rule is to implement H.B 212 (2018), and costs or savings were included in the Legislature's consideration of the bill. A copy of this fiscal analysis is available from the Utah State Legislature website at: <https://le.utah.gov/~2018/bills/static/HB0212.html>.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This new rule implements H.B. 212 (2018) which created the Business Expansion and Retention Initiative. The purpose of this rule filing is to clarify the standards for participation in the program. This rule will have no impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

GOVERNOR
 ECONOMIC DEVELOPMENT
 60 E SOUTH TEMPLE 3RD FLR
 SALT LAKE CITY, UT 84111
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Dane Ishihara by phone at 801-538-8895, or by Internet E-mail at dishihara@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2018

AUTHORIZED BY: Val Hale, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$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

*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 for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

There is no regulatory impact creating financial cost to small businesses, non-small businesses, or other persons. The rule filing is to clarify the standards for participation in the program. There are no general regulations being promulgated by this rule because the program is voluntary and does not require non-participants to do anything. There is no impact to businesses or persons general because this rule only applies to those who chose to participate in this program in order to receive a grant.

R357. Governor, Economic Development.
R357-23. Business Expansion and Retention Initiative.
R357-23-101. Title.

This rule is known as the "Business and Expansion and Retention Initiative Rule."

R357-23-102. Definitions.

In addition to the definitions in Title 63N, Chapter 3, Section 104.5 as defined or used in this rule:

(1) "BEAR" means the Business Expansion and Retention Initiative program.

(2) "Benchmarks" means the points of reference in measuring, tracking and evaluating the performance of a project and the impact on economic development.

(3) "Board" means the Governor's Rural Partnership Board created in Section 63C-10-102.

(4) "Project" means outreach and information gathering efforts, as outlined in Subsection 63N-3-104.5 (7) (a), or other activities approved by the administrator under Subsection R357-22-106.

R357-23-103. Authority.

This rule is adopted by the office under the authority of Subsections 63N-3-104.5 (5) (b) (ii) (c) and 63N-3-104.5 (7) (b).

R357-23-104. Content of Application.

(1) The following content shall, at minimum, be included in each application for participation in BEAR:

- (a) company name;
- (b) contact information including:
 - (i) applicants' physical address;
 - (ii) telephone number; and
 - (iii) email address.
- (c) if the applicant is a registered vendor with that State of Utah documentation of the vendor number.

(d) copy of a current W-9 form;
(e) evidence that the applicant qualifies as a "rural economic development entity" as defined in Subsection 63N-3-104.5 (1) (b);

(f) executive summary of the proposed project that clearly establishes the primary activity of the project and how the project will:

- (i) assist new and existing rural businesses;
- (ii) influence rural job creation;
- (iii) diversify Utah's rural economies;
- (g) the benchmarks of the proposed project and how they will be measured, tracked and reported;

(h) amount of grant funding requested;
(i) list of all entities associated with the proposed project and their anticipated roles;

(j) letters of support from all entities associated with the proposed project;

(k) additional funding sources associated with the proposed project;

(l) timeline of the proposed project; and
(m) detailed budget of the proposed project.

(3) The office will use a scoring system to enable the Board and the Office to analyze the awarding of grants and grant

amounts. The scoring system will be made available in the instructions to the application.

R357-23-105. Verification.

(1) Participation in the application process and approval to participate in BEAR do not guarantee grant funding.

(2) The office shall verify that all benchmarks have been satisfied prior to an economic development entity receiving a grant.

R357-23-106. Other Activities Approved by the Administrator.

Other activities approved by the Administrator include economic development:

(1) planning;

(2) plan implementation;

(3) strategic studies;

(4) revitalization projects;

(5) regional initiatives support;

(6) training, education and cultivation;

(7) seminars and summits; or

(8) other activities if approved by the Board and the Administrator.

KEY: business expansion and retention, economic development

Date of Enactment or Last Substantive Amendment: 2018

Authorizing, and Implemented or Interpreted Law: 63N-3-104.5(5)(b)(ii)(c); 63N-3-104.5(7)(b)

Health, Administration **R380-300** Employee Background Screening

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43144

FILED: 08/10/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to outline the process for the background screening of Department of Health (Department) employees.

SUMMARY OF THE RULE OR CHANGE: This new rule will outline the process for the background screening of Department employees as per S.B. 143 from the 2018 General Session.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-17.1

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** After conducting a thorough analysis, it was determined that this proposed rule will result in a fiscal impact to the state budget. It is estimated that it will take 3 years to work through the 1,200 current employees, 400 per year, and there are about 250 new employees per

year. At a cost of \$67 per person, the total cost per year will be roughly \$43,500 per year. After the current employees are cleared, then the cost will drop as only the new hires will need to be processed each year.

♦ **LOCAL GOVERNMENTS:** After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to local governments because this new rule only applies to the state Department of Health not local department of health entities.

♦ **SMALL BUSINESSES:** After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to the small businesses because this new rule only applies to the state Department of Health not small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to businesses, individuals, local governments, and persons that are not small businesses because this new rule only applies to the state Department of Health not businesses, individuals, local governments, and persons that are not small businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to affected persons because this new rule only applies to the state Department of Health not persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In accordance with S.B. 143 (2018), this rule establishes the Department process for background screenings for current and potential employees. The Department will pay for the cost of the screenings will result in an annual cost of \$67 per employee totaling approximately \$43,500 per year to the Department. After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
ADMINISTRATION
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carmen Richins by phone at 801-273-2802, by FAX at 801-274-0658, or by Internet E-mail at carmenrichins@utah.gov or mail at PO Box 141000, Salt Lake City, UT 84114-1000

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Department of Health Executive Director Joseph K. Miner, MD has reviewed and approved this fiscal analysis.

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$43,500	\$43,500	\$43,500
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$43,500	\$43,500	\$43,500
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$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:	-\$43,500	-\$43,500	-\$43,500

*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 for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses
 After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to businesses, individuals, local governments, and persons that are not small businesses because this amendment applies only to the state Department of Health not businesses, individuals, local governments, and persons that are not small businesses.

R380. Health, Administration.

R380-300. Employee Background Screening.

R380-300-1. Authority.

This rule is adopted pursuant to Title 26 Chapter 1 Section 17.1.

R380-300-2. Purpose.

(1) The purpose of this rule is to set forth the standards for the Department employee and volunteer background screening in accordance with Section 26-1-17.1.

R380-300-3. Definitions.

Terms used in this rule are defined in Title 26, Chapter 1. In addition:

(1) "Current Employee" means all staff, contracted employees, and volunteers who:

(a) have access to protected health information or personal identifying information;

(b) have direct contact with patients, children, or vulnerable adults as defined in Section 62A-2-120;

(c) work in areas of privacy and data security;

(d) handle financial information, including receipt of funds, reviewing invoices, making payments, and other types of financial information; or

(e) perform audit functions, whether internal or external, on behalf of the department.

(2) "Employee" means a current employee of the Department

(3) "New Employee" means job applicants who have been offered a position or reassignment with the department who:

(a) have access to protected health information or personal identifying information;

(b) have direct contact with patients, children, or vulnerable adults as defined in Section 62A-2-120;

(c) work in areas of privacy and data security;

(d) handle financial information, including receipt of funds, reviewing invoices, making payments, and other types of financial information; or

(e) perform audit functions, whether internal or external, on behalf of the department.

(4) "Office of Background Processing" means the background processing section within the department.

R380-300-4. Background Screening Process - Current Employee.

(1) The Department may conduct a background screening on current employees based on division's background screening guidelines determined by risk associated with the employees' work responsibilities.

(2) Current employees who require screening must:

(a) sign a criminal background screening authorization form;

(b) provide personal demographics required; and

(c) submit live scan fingerprints.

(3) Current employees may continue to work during the department's implementation of the background screening process.

(4) If the Office of Background Processing determines that a current employee is not eligible for continued employment, based on criminal record information obtained through the initial or ongoing background screening process, the Office of Background Processing shall send a notice of action to the employee and the employee's division director which shall include the action, the reconsideration process, and a statement that the information is confidential.

(5) The department may allow a current employee to continue to work with conditions, during the reconsideration process as defined in each division's background screening guidelines if the employee can demonstrate the work arrangement does not pose a threat to the department and the safety and health of Utah citizens.

(6) The department is responsible for the payment of all fees required and any fees required to be submitted to the Federal Bureau of Investigation by the bureau.

R380-300-5. Background Screening Process - New Employees.

(1) Background screening is part of the department's hiring process and any offer of employment is conditional upon the results of the background screening.

(2) An employee who is reassigned to the department will be informed in writing that their offer of employment with the department is conditional upon on the results of the background screening.

(3) The Office of Background Processing shall determine if the new employee is eligible for employment prior to the new employee:

(a) having access to protected health information or personal identifying information;

(b) having direct contact with patients, children, or vulnerable adults as defined in Section 62A-2-120;

(c) working in areas of privacy and data security;

(d) handling financial information, including receipt of funds, reviewing invoices, making payments, and other types of financial information; or

(e) performing audit functions, whether internal or external, on behalf of the department.

(4) All new employees who have been offered employment with the department shall:

(a) sign a criminal background screening authorization form;

(b) provide personal demographics; and

(c) submit live scan fingerprints.

(5) If the Office of Background Processing determines that a new employee is not eligible for employment, based on information obtained through the background screening process, the Office of Background Processing shall send a notice of action to the employee, Human Resources and the employee's division director which shall include the action and a statement that the information is confidential.

(6) The department is responsible for the payment of all fees required and any fees required to be submitted to the Federal Bureau of Investigation by the bureau.

R380-300-6. Sources for Background Review.

(1) In accordance with Section 26-1-17.1, the department may review relevant information obtained from the following sources:

(a) Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files; and

(b) federal criminal background databases available to the state.

(2) The department shall classify a crime committed in another state according to the closest matching crime under Utah law, regardless of how the crime is classified in the state where the crime was committed.

(3) If the Office of Background Processing determines an employee is not eligible for continued employment based upon the criminal background screening and the employee disagrees with the information provided by the Criminal Investigations and Technical Services Division or court record, the employee may challenge the information obtained from the background screening process through the appropriate agency.

(4) Ongoing monitoring of records referred to in 6(1) will immediately be discontinued upon separation of employment.

R380-300-7. Current Employee Exclusions.

(1) Convictions or Pending Charges.

(a) If an employee has been convicted, has pleaded no contest, or is subject to a plea in abeyance or diversion agreement, for deniable offenses outlined within each division's background screening guidelines, the employee may be terminated.

(b) If an employee has a warrant for arrest or an arrest for any of the identified deniable offenses, the department may terminate employment based on:

(i) the type of offense;

(ii) the severity of offense; and

(iii) potential risk to the department.

(2) Review of Relevant Information.

(a) Results of background screening, may be reviewed to determine under what circumstance, if any, the current employee may continue to be employed. The following factors may be considered:

(i) types and number;

(ii) passage of time;

(iii) surrounding circumstances;

(vi) intervening circumstances; and

(v) steps taken to correct or improve.

(3) The Office of Background Processing may deny clearance based on the relevant information identified in subsection 6(1).

KEY: employees, background screenings

Date of Enactment or Last Substantive Amendment: 2018

Authorizing, and Implemented or Interpreted Law: 26-1-17.1

**Health, Family Health and
Preparedness, Licensing
R432-950
Mammography Quality Assurance**

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 43136
FILED: 08/07/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add language consistent with the requirements of H.B. 258 passed during the 2018 General Session.

SUMMARY OF THE RULE OR CHANGE: This amendment will require all mammography providers to provide notice to women with dense breast tissue of the relevant health care information related to that type of tissue. The specific notice to be given is provided in the statute and added to this rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21a

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The mammography reporting process was reviewed. This proposed amendment will not add any new process steps for the regulatory agency. This proposed amendment is not expected to impact state revenues or expenditures.
- ◆ **LOCAL GOVERNMENTS:** Local governments were considered, however, this won't affect any government processes.
- ◆ **SMALL BUSINESSES:** This amendment will not affect small mammography businesses. They already provide information to women who have been screened.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment will not affect businesses or other individuals. Mammography facilities already provide information to women who have been screened.

COMPLIANCE COSTS FOR AFFECTED PERSONS: After conducting a thorough analysis, it was determined that this proposed amendment will not result in a fiscal impact to affected persons because this amendment does not introduce any new processes to mammography facilities.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that this rule will not result in fiscal impact to businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
FAMILY HEALTH AND PREPAREDNESS,
LICENSING
3760 S HIGHLAND DR
SALT LAKE CITY, UT 84106
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Joel Hoffman by phone at 801-273-2804, by FAX at 801-274-0658, or by Internet E-mail at jhoffman@utah.gov or mail at PO Box 142003, Salt Lake City, UT, 84114-2003

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$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

Appendix 2: Regulatory Impact to Non-Small Businesses

This amendment will not affect non-small businesses. The mammography facilities affected by this rule amendment already provide information to women who have been screened. There are no new requirements.

After conducting a thorough analysis, it was determined that this rule will not result in fiscal impact to businesses. Joseph K. Miner, MD, Executive Director.

R432. Health, Family Health and Preparedness, Licensing.**R432-950. Mammography Quality Assurance.****R432-950-13. Mammography Records.**

(1) A medical record shall be maintained for each patient on whom screening or diagnostic mammography is performed.

(a) Provision shall be made for the filing, safe storage and accessibility of medical records.

(b) Records shall be protected against loss, defacement, tampering, fires, and floods.

(c) Records shall be protected against access by unauthorized individuals.

(d) All records shall be readily available upon the request of:

(i) The attending physician,

(ii) Authorized representatives of the Department for determining compliance with licensure rules;

(iii) Any other person authorized by written consent.

(e) The facility shall establish a system to assure that the patient's mammogram is accessible for clinical follow-up when requested.

(i) A copy of the mammogram and other appropriate information shall be sent to the requesting party responsible for subsequent medical care of the patient no later than 14 working days from the request for information. This shall include the full notification and follow up required under Utah Code 26-21a-206 and Administrative Code R432-950-14.

(ii) Medical information may be released only upon the written consent of the patient or her legal representative.

(2) The facility shall attempt to obtain a prior mammogram for each patient if the prior mammogram is necessary for the physician to properly interpret the current exam.

(3) The interpreting physician shall prepare and sign a written report of his interpretation of the results of the screening mammogram.

(a) The written report shall include a description of detected abnormalities and recommendations for subsequent follow-up studies.

(b) The interpreting physician shall render the report as soon as reasonably possible.

(c) The interpreting physician or his designee shall document and communicate the results of the report to the referring physician or his designated representative by telephone, by certified mail, or in such a manner that receipt of the report is assured.

(d) The interpreting physician or his designee shall notify self-referred patients, that is, patients who have no referring physician, of the results of the screening study in writing and in lay language.

(4) The interpreting physician or his designee shall document and communicate the results of all diagnostic reports in the high probability category with suspicion of breast cancer to the referring physician or his designated representative by telephone, by certified mail, or in such a manner that receipt of the report is assured.

(5) The physician shall document and communicate in person in lay language, by certified mail, or in such a manner that receipt of the diagnostic report is assured to all self-referred patients within the high probability category with a suspicion of breast cancer. The report shall indicate whether the patient needs to consult with a physician.

(a) The interpreting physician or his designee shall attempt to make a follow-up contact with the patient to determine whether she has consulted a physician for follow-up care.

(b) The interpreting physician or his designee shall document in the patient's medical record attempts to communicate the results to the patient.

(6) The facility shall retain the original and subsequent mammograms for a period of at least five years from the date of the procedure.

R432-950-14. Education and Notification Requirements.

(1) A patient has the right to be treated with dignity and afforded privacy during the examination.

(2) The facility shall establish an education system to ensure that the patient understands:

(a) The purpose of the mammogram and how it is used to screen for breast cancer;

(b) The process required to obtain the mammogram;

(c) The importance of the screening mammography to her ongoing health.

(3) As required in Utah Code 26-21a-206, the facility shall include the following notification and information with a mammography result provided to a patient with dense breast tissue: "Your mammogram indicates that you have dense breast tissue. Dense breast tissue is common and is found in as many as half of all women. However, dense breast tissue can make it more difficult to fully and accurately evaluate your mammogram and detect early signs of possible cancer in the breast. This information is being provided to inform and encourage you to discuss your dense breast tissue and other breast cancer risk factors with your health care provider. Together, you can decide what may be best for you. A copy of your mammography report has been sent to your health care provider. Please contact them if you have any questions or concerns about this notice."

(4) The copy of the mammography report provided to the patient and the health care provider shall include the dense breast tissue notification required under Utah Code 26-21a-206.

KEY: health care facilities, mammography

Date of Enactment or Last Substantive Amendment: [~~June 2, 2010~~2018]

Notice of Continuation: September 15, 2016

Authorizing, and Implemented or Interpreted Law: 26-21a-203

**Human Services, Substance Abuse
and Mental Health**

R523-5

**Peer Support Specialist Training and
Certification**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43141

FILED: 08/08/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change is necessary to update the authorization citation, and create a due process for decertifying current Peer Support Specialists (PSS) under certain conditions that place others at risk of harm, and an appeals process for those that revocation actions are taken against.

SUMMARY OF THE RULE OR CHANGE: These changes include: the authorization citation has been updated; PSSs are required to abide by the Department of Human Services (DHS) code of conduct; the employer of a PSS is required to report if they are aware of misconduct by a PSS; the Division of Substance Abuse and Mental Health (Division) may revoke certification if the PSS acts unprofessionally or illegally, or does not meet the CEU requirements; and PSSs that have been notified of a revocation may appeal their case to the Division director or designee, who may support or revoke the revocation.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 62A-15-103(2)(v)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no anticipated cost, these rule changes formalize the Division's procedure within PSS certification. In the new Section R523-5-9, they clarify that the Division will start sending Notices of Agency Action (NAA) out to the individuals that have their PSS certification revoked. This is a new process so there is not an average number of revocations to calculate, but based on past experience, about one person per year is discharged by their employer for illegal or unprofessional conduct; putting together one NAA in the first year, and calculating printing and mailing cost makes this impact basically negligible.

◆ **LOCAL GOVERNMENTS:** These amendments are mostly clarifying in nature and do not require any additional actions from local governments than already exist. There should be no cost savings or increases to local governments.

◆ **SMALL BUSINESSES:** It is anticipated that no small businesses will participate in the certification or endorsement described in this rule. This rule mostly effects local governments, employees of local governments, businesses contracted with local governments to provide substance use and/or mental health treatment services (none of which are small businesses at this time), and private citizens that are proactively seeking work within the public substance use and mental health treatment field and are covering personal cost to receive the certification and endorsement to place on a resume.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Each PSS has been required by this rule to "maintain

adequate documentation as proof of compliance" in the new Section R523-5-9. In the past, PSS certifications have been revoked by noncompliance, these instances have been handled at the employer level, this rule change adds clarifying language on how the Department will handle these as a whole. There is no reason to believe that more individuals are at risk of losing employment because of a decertification over the number of individuals that lost employment before a formal process was in place.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance costs are associated with this rule change other than those that already exist from the initial establishment of this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that these proposed changes will not result in a fiscal impact to businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HUMAN SERVICES
 SUBSTANCE ABUSE AND MENTAL HEALTH
 195 N 1950 W
 SALT LAKE CITY, UT 84116
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Jonah Shaw by phone at 801-538-4219, by FAX at 801-538-3942, or by Internet E-mail at jshaw@utah.gov
- ◆ Thomas Dunford by phone at 801-538-4181, by FAX at 801-538-4696, or by Internet E-mail at tdunford@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2018

AUTHORIZED BY: Doug Thomas, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0

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

*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 for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses
 This rule change is not expected to have any fiscal impacts on non-small businesses revenues or expenditures, because it is not anticipated that the peer support specialist training and certification process to be utilized by any non-small or small business.

R523. Human Services, Substance Abuse and Mental Health.

R523-5. Peer Support Specialist Training and Certification.

R523-5-1. Purpose, Authority and Intent.

(1) Purpose. This rule prescribes standards for certification of Peer Support Specialist Training programs; the qualifications required of instructors for providing Peer Support Training; and the requirements to become a Peer Support Specialist and establishes guidelines for population specific peer support services.

R523-5-2. Authority.

~~[(2)](1)~~ ~~[Statutory Authority.]~~ These standards are promulgated by the Utah Department of Human Services through the Division of Substance Abuse and Mental Health, hereinafter referred to as "Division", as authorized by ~~[Section 62A-15-103(h)]~~ Subsection 62A-15-103(2)(v).

R523-5-3. Intent.

~~[(3)](1)~~ ~~[Intent.]~~ The objective of the peer support specialist training is to establish training programs to certify individuals that have completed requisite training to work as substance use disorder and/or mental health peer support specialists and provide services based on service guidelines.

R523-5-2]4. Definitions.

(1) "Peer Support Specialist (PSS)" is an individual who has successfully completed an approved Peer Support Specialist Training Program and for ongoing certification has met the requirements outlined in ~~[paragraph]~~ Section R523-5-~~[6]~~8.

(2) "Approved Curriculum" means a curriculum which has been approved by the Division in accordance with these rules.

(3) "Certification" means that the Division verifies the individual has met the requirements outlined in this rule to be a peer support specialist and has completed the required training.

(4) "Director" means the Director of the Division of Substance Abuse and Mental Health.

(5) "Division" means the Division of Substance Abuse and Mental Health.

(6) "Peer Support Specialist Training Program" is an instructional series operated by an approved agency or organization which satisfies the standards established by the Division and is herein referred to as a "Peer Support Specialist Training Program".

(7) "Program Certificate" is a written authorization issued by the Division to the training entity which indicates that the Program has been found to be in compliance with these Division standards.

(8) "Recovery" is a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.

(9) "Youth-In-Transition" means young people who are between the ages of 16 and 25, or those outside of this age range for which peer support services have been deemed developmentally and socially appropriate by a licensed mental health therapist.

R523-5-3]5. Certification Requirements for Peer Support Specialist Training Programs.

(1) An application for Program Certification will require that the program provide, among other things:

(a) Qualifications of individuals who will be providing the training.

(b) A curriculum that outlines no less than forty (40) hours of face-to-face instruction covering the curriculum requirements outlined in ~~[paragraph]~~ Section R523-5-~~[5]~~(7) for a PSS.

(c) A plan to ensure that instructors continue to meet reported qualifications and adhere to the approved curriculum.

(d) An agreement to maintain records of the individual's attendance and completion of all program requirements for at least seven years.

(e) An agreement to comply with all applicable local, state and federal laws and regulations.

(2) The Division Director has the authority to grant exceptions to any of the certification requirements.

R523-5-4]6. Division Oversight of Program.

(1) The Division may enter and survey the physical facility, program operation, review curriculum and interview staff to determine compliance with this rule or any applicable contract to provide such services.

(2) The PSS Training Program shall also allow representatives from the Division and from the local authorities as authorized by the Division to attend the classes held. Such visits may be announced or unannounced.

(3) The Division will establish an application process to review and approve applicants for the PSS Training Program. This process will:

(a) Develop and publish an application to be a PSS.

(b) Solicit input from stakeholders, PSS's and other individuals on the review process.

(c) Establish further criteria for acceptance into the PSS program as needed.

R523-5-[5]7. Curriculum Requirements for Adult Peer Support Specialist Training Programs.

(1) This curriculum shall provide at least forty (40) hours of instruction for original certification and twenty (20) hours for any and all re-certifications. The curriculum shall include the following components as they relate to the PSS's lived experience and recovery in order to assist in the identified client's strengths working towards recovery:

- (a) Etiology of mental illness and substance use disorders;
 - (b) The stages of recovery from mental illness and substance use disorders;
 - (c) The relapse prevention process;
 - (d) Combating negative self-talk;
 - (e) The Role of peer support in the recovery process and using your recovery story as a recovery tool;
 - (f) Dynamics of change;
 - (g) Ethics of peer support;
 - (h) Professional relationships, boundaries and limits;
 - (i) Scope of peer support;
 - (j) Cultural competence: self-awareness - cultural identity;
 - (k) Stigma and labeling;
 - (l) Community resources to support individuals in recovery;
 - (m) Assisting individuals in accomplishing recovery goals;
 - (n) Coach, mentor, and role model recovery;
 - (o) Assist in identification of natural, formal and informal supports;
 - (p) Stress management techniques;
 - (q) Assist individuals in reaching educational and vocational goals;
 - (r) Crisis prevention; and
 - (s) Assist with physical health and wellness.
- (2) The curriculum shall include:
- (a) Active listening and communication skills; and
 - (b) Basic motivational interviewing skills.
- (3) The curriculum must include a strong emphasis on ethical behavior, dual relationships, scope of peer support and professional boundaries and should include case studies, role plays and experiential learning.

R523-5-[6]8. Requirements to Become a PSS.

- (1) Be an individual who participated in substance use disorder or mental health treatment services who is now in sustained recovery, or
- (2) Be an individual in recovery from substance use or mental health disorders through means other than treatment services who is now in sustained recovery.
- (3) Be at least 18 years of age.
- (4) Complete the application process with the Division.
- (5) Pass the qualification exam with score of 70% or above.
- (6) Have attended and successfully completed a Division approved PSS training program and have a valid certificate from that training.

R523-5-[7]9. Requirements to Remain Qualified as a PSS.

(1) Complete at least twenty (20) hours of continuing education every two (2) years including two (2) hours of ethics training, six (6) hours pertaining specifically to peer support services, one (1) hour of suicide prevention training and eleven (11) hours of general mental health and/or substance use disorder training.

(2) Each PSS shall maintain adequate documentation as proof of compliance with this Section, such as a certificate of completion, school transcript, course description, or other course materials. The PSS shall retain this proof for a period of three years after the end of the renewal cycle for which the continuing education is due; and

- (a) At a minimum, the documentation shall contain the following:
 - (i) Date of the course;
 - (ii) Name of the course provider;
 - (iii) Name of the instructor;
 - (iv) Course title;
 - (v) Number of hours of continuing education credit; and
 - (vi) Course objectives.

(3) Each PSS shall abide by the Provider Code of Conduct pursuant to Section R495-876, and as also found in the Department of Human Services Provider Code of Conduct Policy.

(a) Each employer shall notify the Division within 30 days, if a certified PSS engages in unprofessional or unlawful conduct.

(b) The Division may revoke, refuse to certify or renew a certification to an individual who is substantiated to have engaged in unprofessional or unlawful conduct.

(c) If a PSS fails to complete the requirements for CEUs, their certificate may be revoked or allowed to expire and may not be renewed.

(d) The Division shall revoke, refuse to certify or renew a certification to an individual who is substantiated to have engaged in unprofessional or unlawful conduct.

(4) An individual who has been served a Notice of Agency Action that the certification has been revoked or will not be renewed may request a Request for Review to the Division Director or designee within 30 days of receipt of notice.

(5) The Division Director or designee shall review the findings of the Notice of Agency Action and shall determine to uphold, amend or revise the action of denial or revocation of the certification.

R523-5-[8]10. Population Specific Guidelines.

- (1) Typically a PSS works with individuals age 18 and older.
- (2) A PSS may work with Youth-In-Transition if the PSS has completed Youth-In-Transition training, in addition to any other PSS training, of no less than 8 hours, and receives a Youth-In-Transition endorsement from the Division on their PSS certification.

R523-5-[9]11. Curriculum Requirements for Youth-In-Transition Training Programs.

(1) This curriculum shall provide at least eight (8) hours of instruction for the Youth-In-Transition endorsement of PSS certification. The curriculum, which shall be approved by the

Division, shall include, but not be limited to, the following components as they relate to Youth-In-Transition:

(a) Meaning of Youth-In-Transition and specific challenges related to this population;

(b) Preferred practice models and tools;

(c) Population specific material regarding: common challenges, barriers, resources, relationship issues, recovery, housing, employment, legal, crisis, cultural and self-care.

(d) Professional relationships, boundaries and limits.

(2) The curriculum must be strength based and shall include:

(a) Active listening and communication skills; and

(b) Basic motivational interviewing skills.

(3) The curriculum shall include a strong emphasis on ethical behavior, dual relationships, scope of peer support and professional boundaries and shall include case studies, role plays and experiential learning specific to Youth-In-Transition.

(4) The Division, PSS, mental health and substance use disorder professionals and advocate organizations shall regularly review and make evidence-based updates to the curriculum at least every two years. Final determination on curriculum changes or updates shall be made by the Division.

KEY: peer support specialists, PSS program, certification of programs, substance use disorder

Date of Enactment or Last Substantive Amendment: ~~August 1, 2017~~ 2018

Authorizing, and Implemented or Interpreted Law: ~~[62A-15-402]~~ 62A-15-103(2)(v)

End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a **PROPOSED RULE** in the *Utah State Bulletin*, it may receive comment that requires the **PROPOSED RULE** to be altered before it goes into effect. A **CHANGE IN PROPOSED RULE** allows an agency to respond to comments it receives.

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends October 1, 2018.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them (~~example~~). A row of dots in the text between paragraphs (.) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Office of Administrative Rules.

From the end of the 30-day waiting period through December 30, 2018, an agency may notify the Office of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective 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. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

CHANGES IN PROPOSED RULES are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

The Changes in Proposed Rules Begin on the Following Page

Environmental Quality, Administration R305-7 Administrative Procedures

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 42781

FILED: 08/14/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These new revisions have been made in response to public comments.

SUMMARY OF THE RULE OR CHANGE: In response to public comments, certain revisions on the proposed rule language were deemed reasonable and appropriate. More specifically, the following changes were made: 1) Subsection R305-7-101(2)(a) was revised to clarify that this rule applies to all adjudications before the entire Department of Environmental Quality (Department); 2) Section R305-7-104 was not revised despite comments on this provision. The commentor took the position that the Department should allow for the initiation of adjudicative proceedings via email or other electronic filing. The current rule requires that a signed, paper copy must be received by the applicable Director as of the due date. The Administration's position is that the current rule, as has been judicially interpreted, requires that a paper copy of an appeal be received as of the due date. The present amendments do not represent any change to the substance of the present rule. Rather, the present amendment is intended to clarify the existing rule. The Department has determined that the initiation of an adjudicative proceeding requires a procedural trigger as appeal deadlines are jurisdictional. It is reasonable for the Department to require that a physical, signed, hard-copy of any appeal be received by the due date so as to assure that the Director actually receives notice of the appeal and can initiate the internal procedures to trigger an adjudication. Initiation of new adjudications via email is not desirable. Utah state courts require a case intake process to initiate new actions. This requires a court clerk to review the filing and accept it. This rule, as amended, was found to be reasonable and in the interests of due process; 3) Section R305-7-114, regarding dismissal for failure to prosecute, was changed to provide a putative party (such as a permittee or licensee) the right to file a motion to dismiss for failure to prosecute; 4) Subsection R305-7-200(2) was amended in response to comments about potential unfairness of the retroactive application of the 2018 amendments. Retroactivity does not apply if there is good cause to apply a former version of this rule in a given situation; 5) Subsection R305-7-302(4), regarding service, was amended to reduce the number of days a Director has to serve a notice from seven to three days. This is reasonable. The automatic extension still applies for each day in excess of three days. It is the normal practice of Directors to serve notices promptly. Three days is

consistent with current practices; 6) Subsection R305-7-306(4) was re-written so as to encourage parties to meet and confer and submit a Joint Status Report. Only if the parties are unable to do so do the other procedures apply – that the Director would submit a status report, followed by an opportunity for the opposing party to respond. This revision was found to be more consistent with the Utah Rules of Civil Procedure and the normal practice of persons appearing in adjudicative proceedings; 7) Subsection R305-7-306(5) was amended so as to provide a good-cause exception to the rule that responses are not due until the administrative law judge (ALJ) has issued a Notice of Further Proceedings; and 8) Section R305-7-310 was amended to: a) add a provision regarding the use of standard protective orders to address confidentiality issues; and b) delete the proposed provision regarding the application of GRAMA to document discovery. This was the most controversial provision of these proposed rule changes. Based on comments received, it was decided that the most appropriate way to achieve the policy goals of GRAMA as to the protection of certain information is to use a protective order such as is commonly done in federal and state courts. Subsection (2)(b) was amended to provide for the staged service of initial disclosures, making this amendment more consistent with the Utah Rules of Civil Procedure. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the May 1, 2018, issue of the Utah State Bulletin, on page 40. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-1-301 and Section 19-1-301.5 and Subsection 19-1-201(1)(d) and Subsection 64G-4-102(6)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** These amendments will have no impact on the state budget because these amendments simply provide additional clarification of procedure that is already in place under the existing rule.
- ◆ **LOCAL GOVERNMENTS:** These amendments will have no impact on local governments because these amendments simply provide additional clarification of procedure that is already in place under the existing rule.
- ◆ **SMALL BUSINESSES:** These amendments will have no impact on small businesses because these amendments simply provide additional clarification of procedure that is already in place under the existing rule.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These amendments will have no impact on other persons because the amendments simply provide additional clarification of procedure that is already in place under the existing rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These revisions to the proposed amendments published under Filing No. 42781 in the May 1, 2018, Bulletin, will not result in additional compliance costs for affected persons. There is no associated fee.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These revisions to the proposed amendments published under Filing No. 42781 in the May 1, 2018, Bulletin, will not result in additional compliance costs for businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY ADMINISTRATION
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3085
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Bret Randall by phone at 801-536-0284, or by Internet E-mail at bfrandall@agutah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2018

AUTHORIZED BY: Alan Matheson, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$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

*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 for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses
 The amendment will have no impact on non-small businesses because the amendments simply provide additional clarification of procedure that is already in place under the existing rule.

The executive director of the Department of Environmental Quality has reviewed and approved this fiscal analysis.

R305. Environmental Quality, Administration.

R305-7. Administrative Procedures.

R305-7-101. Scope of Rule and Purpose of Parts.

(1) This rule governs all adjudicative procedures conducted under the authority of the Environmental Quality Code, Utah Code Ann. Title 19. This rule does not govern the proceedings that result in an initial determination by the Director, including the issuance of the initial determination itself.

(2)(a) Part 1 of this Rule (R305-7-101 through 113) applies to all adjudications before the ~~[Executive Director]~~ Department. It addresses general and preliminary matters.

(b) Part 2 of this Rule (R305-7-200 through 217) applies to special adjudicative proceedings. These procedures are governed by Section 19-1-301.5.

(c) Part 3 of this Rule (R305-7-301 through 319) applies to adjudicative procedures that are not special adjudicative proceedings. These procedures are governed by Section 19-1-301.

(e) Part 4 of this Rule (R305-7-401 through 403) addresses matters initiated by notices of agency action.

(d) Part 5 of this Rule (R305-7-501 through 503) addresses declaratory orders and emergency adjudication.

(e) Part 6 of this Rule (R305-7-601 through 623) addresses matters relevant to specific statutes.

.....

R305-7-103. Form of Submissions.

(1) All submissions, whether on paper copy or electronic, shall use 8-1/2 by 11 inch pages, be double-spaced, with each page numbered, and have one inch margins and 12 point font. Paper copies of documents submitted under this Rule shall ordinarily be printed on white paper; double-sided printing is encouraged but not required.

(2) Requests for Agency Action, Notices of Agency Action, and Petitions for Review shall include numbered paragraphs.

(3) The first page of every filing shall contain a caption that gives the name and file number of the proceeding, the name of the ALJ if one has been appointed, and the filing date.

(4) Requirements for motions and briefs for special adjudicative proceedings are specified in R305-7-211 and R305-7-213. Requirements for motions for other proceedings are specified in R305-7-312.

.....

R305-7-111. No Limitation on Authority to Bring Action[~~-or Undertake Investigations~~].

(1) Nothing in this Rule shall be read as a limitation on a Director's statutory authority to bring an emergency proceeding or a judicial proceeding under either UAPA, Section 63G-4-502, or under the Department of Environmental Quality Code, Utah Code Ann. Title 19. It shall also not be read as a limitation on the procedures a Director may use for an emergency proceeding under those authorities.

(2) Failure in this Rule to provide administrative procedures for an administrative action that is authorized by statute shall not be read as a limitation of a Director's authority to bring that action.

.....

R305-7-114. Prosecution of Actions; Dismissal for Failure to Prosecute.

(1) The party seeking relief is responsible for prosecuting administrative proceedings under this Rule.

(2) Unless the parties otherwise agree, if no request for appointment of an ALJ under R305-7-206(2) has been filed within three months after the filing date of a Request for Agency Action or Petition for Review, the Executive Director, a party, or a putative party to the adjudicative proceeding (e.g., the permittee or licensee) may serve a written notification to the parties stating that, absent a showing of good cause by a date specified in the notification, the Executive Director shall dismiss the adjudication for lack of prosecution. A Director may also file a motion to dismiss for failure to prosecute under this subsection to the Executive Director. In either case, unless good cause is demonstrated, the Executive Director shall dismiss such Request for Agency Action or Petition for Review.

(3) In any adjudicative proceeding in any matter governed by this Rule where an ALJ has been appointed, the Director or other party or putative party to the adjudicative proceeding (e.g., the permittee or licensee) may file a motion to dismiss for failure to prosecute. Unless, after notice, the party seeking relief shows good cause for delay, the ALJ shall enter an order recommending that the Executive Director dismiss the proceeding for lack of prosecution.

R305-7-200. Retrospective Construction and Interpretation.

(1) SB 282 and SB 173 (Gen. Session 2015) modified Section 19-1-301.5 permit review adjudicative procedures effective May 12, 2015. Because the revisions are procedural, they shall be accorded retrospective construction in the sense that they will be applied to pending actions and proceedings, as well as to future actions but will not be so applied as to defeat procedural steps completed before the effective date of May 12, 2015.

(2) Because the 2018 amendments to this Rule are procedural in nature, they shall apply to all matters pending before the Executive Director, unless good cause exists to apply a former version of the Rule.

.....

R305-7-302. Issuance and Service of Initial Orders and Notices of Violation.

(1) Unless otherwise stated, an Initial Order or a Notice of Violation is effective upon issuance and, even if it is contested, remains effective unless a stay is issued or the Initial Order or a Notice of Violation is rescinded, vacated or otherwise terminated.

(2) The date of issuance of an Initial Order or a Notice of Violation is the date the Initial Order or a Notice of Violation is signed and dated.

(3) Unless otherwise provided by law, Notices of Violation and Initial Orders shall be served through U.S. Postal Service Certified Mail, postage prepaid, addressed to the respondent's Designated Address. If there is no Designated Address for a respondent, service may be made through U.S. Postal Service Certified Mail, postage prepaid, addressed to the respondent's legal registered agent or, if the respondent is an individual, addressed to the respondent's dwelling or place of business. Notices of Violation and Initial Orders may also be served personally (by hand-delivery) or by Certified Mail with Return Receipt requested. Service of Initial Orders and Notices of Violation may also be made in the same manner as a summons in accordance with Rule 4 of the Utah Rules of Civil Procedure.

(4) Service of Notices of Violation and Initial Orders shall be made no more than ~~seven~~ three days after the date of issuance. If service is made more than ~~seven~~ three days after the date of issuance, the dates provided in R305-7-303 shall be extended by the same number of days that are in excess of ~~seven~~ three days.

(5) For purposes of this Rule, service is effective upon mailing, provided that the U.S. Postal Service Certified Mail receipt shows that the mailing was delivered. If the mailing is returned or if delivery is attempted but not made, service via U.S. Postal Service Certified Mail will not be deemed to be effective.

.....

R305-7-306. Proceedings After a Request for Agency Action is Filed.

(1) After a Request for Agency Action has been filed, the parties are encouraged to meet to attempt to resolve the matter.

(2) No response to a Request for Agency Action under Section 63G-4-204 is required, but the Director may elect to file a response. No reply to the Director's response is permitted.

(3)(a) Any party may at any time file a request for appointment of an ALJ. An ALJ will not ordinarily be appointed until requested by a party, although the Executive Director may appoint an ALJ at any time.

(b) A request for appointment of an ALJ shall be filed as provided in R305-7-104(2)(a), and served as provided in R305-7-104(2)(b).

(4) ~~[Within 10 days after the appointment of an ALJ, the Director shall file and serve a Status Report that includes a brief statement of the case, an indication as to whether the Director believes further proceedings are warranted, and, if so, the Director's proposed scope of such further proceedings. The Status Report will provide the ALJ with the Director's position as to whether formal discovery is warranted as provided in R305-7-310, and, if so, the general nature and scope of the requested discovery. Within five days after service of the~~

~~Director's Status Report, the other party or parties shall file and serve a Status Report including the same information outlined above. The parties are encouraged to meet and confer regarding the nature and scope of discovery, scheduling, and other pre-hearing matters.]The parties are encouraged to meet and confer regarding the nature and scope of discovery, scheduling, and other pre-hearing matters and to file, within 10 days of the appointment of the ALJ, a Joint Status Report that addresses the following subjects: (a) a brief statement of the case; (b) an indication as to the parties' position as to the need for further proceedings and, if such further proceedings are needed, the anticipated scope of such proceedings; (c) whether reasonable formal discovery is warranted as provided in R305-7-310, and, if such formal discovery is warranted, the general nature and scope of the requested discovery. If the parties are not able to reach agreement on a Joint Status Report, the Director shall file and serve, within 10 days after the appointment of an ALJ, a Status Report that includes the subjects described above. Within 10 days after service of the Director's Status Report, the other party or parties may file and serve a response to the Director's Status Report.~~

(5) Within 10 days after receipt of the ~~[final]~~ Joint Status Report or the Response to the Director's Status Report, pursuant to subpart (4) or such other time deemed reasonable by the ALJ, the ALJ shall issue a Notice of Further Proceedings in accordance with Section 63G-4-201(3)(d) and (e). Unless otherwise ordered by the ALJ for good cause (such as a situation involving the need for emergency relief), [Until] until the ALJ has issued a Notice of Further Proceedings, no responses to motions filed before that date are due. If motions are pending in the matter, the Notice of Further Proceedings shall set the schedule for briefing and, if warranted, hearing and resolution of such pending motions.

.....

R305-7-310. Disclosures and Discovery.

(1) The ALJ shall allow reasonable formal discovery if requested by any party. The ALJ may limit the scope of formal discovery for the reasons stated in Rules 26 and 37(a)(7) of the Utah Rules of Civil Procedure. The ALJ may also enter an order imposing sanctions provided in Rule 37(b) of the Utah Rules of Civil Procedure, except that the ALJ has no power of contempt and may not impose financial sanctions under Rule 37. By stipulation or upon motion, the ALJ may enter a protective order imposing protections and limitations governing records of information produced in the adjudicative

proceeding. The ALJ is encouraged to use a form of Standard Protective Order typically used in Utah state or federal court proceedings.

(2)(a) Except as otherwise provided in this Section R305-7-310, the time periods, limitations and other requirements for discovery in the Utah Rules of Civil Procedure shall apply unless otherwise ordered by the ALJ after consideration of the specific formal discovery proposed.

(b) Initial disclosures shall be required as provided in Utah Rules of Civil Procedure Rule 26(a)(1)(B) through (D), except that the Director's preparation of the Initial Record as provided in R305-7-309 will be deemed to be adequate to satisfy the Director's duty to provide initial disclosure of records under Rule 26. Unless otherwise ordered by the ALJ, initial disclosures must be filed within twenty-eight (28) [fifteen (15)] days of the date of service of the Director's Initial Disclosures[entry of the Notice of Further Proceedings].

(3) If applicable, expert disclosures, as defined under Rule 26, Utah Rules of Civil Procedure, will also be required in connection with an evidentiary hearing on the merits. The due dates as provided in Rule 26 shall apply, unless otherwise ordered by the ALJ.

(4) Prehearing disclosures and related matters will be governed by R305-7-313, or by order of the ALJ, and not by Rule 26, Utah Rules of Civil Procedure.

~~[(5) All requests for the production of documents submitted to the Director shall be limited by the Government Records Access and Management Act, Title 63G, Chapter 2, as modified by Section 19-1-306 of the Utah Environmental Quality Code. Documents that are not required to be disclosed under these statutes are not subject to discovery in an enforcement proceeding.]~~

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KEY: administrative procedures, adjudicative procedures, hearings

Date of Enactment or Last Substantive Amendment: 2018

Notice of Continuation: October 26, 2017

Authorizing, and Implemented or Interpreted Law: 19-1-301; 19-1-301.5; 63G-4-102; 63G-4-201; 63G-4-202; 63G-4-203; 63G-4-205; 63G-4-503

End of the Notices of Changes in Proposed 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.

Education, Administration **R277-613**

LEA Bullying, Cyber-bullying, Hazing and Harassment Policies and Training

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43131
FILED: 08/02/2018

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board of Education (Board); and Subsection 53E-3-401(4)(a), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law. The purpose of Rule R277-613 is to require LEAs to develop, update, and implement bullying, cyber-bullying, hazing, retaliation, and abusive conduct policies at the school district and school level; provide for regular and meaningful training of school employees and students; provide for enforcement of the policies in schools, at the state level and in public school athletic programs; and require an LEA to review allegations of bullying, cyber-bullying, hazing, retaliation, and abusive conduct.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There were no written comments received supporting or opposing this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is still necessary because it requires LEAs to implement bullying, cyber-bullying, hazing, and harassment policies district and school wide; to provide for regular and meaningful training of school employees and students; to provide for enforcement of the policies in schools, at the state level and in public school athletic programs; to require LEAs to notify parents of specific bullying, cyber-bullying, hazing, harassment and suicide threat incidents; and to require LEAs to maintain documentation as required by law. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Angela Stallings by phone at 801-538-7550, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

EFFECTIVE: 08/02/2018

Environmental Quality, Water Quality **R317-15** Water Quality Certification

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43130
 FILED: 08/02/2018

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule establishes procedures for applying for and processing State Water Quality Certification pursuant to Section 401 of the federal Water Pollution Prevention and Control Act, 33 U.S.C. Section 1341, and consistent with the Utah Water Quality Act, Title 19, Chapter 5.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received during and since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The purpose of the State Water Quality Certification is to ensure that the federally permitted or licensed activities will be conducted in a manner that will comply with applicable discharge and water quality requirements in order to maintain the chemical, physical, and biological integrity of the State's waters. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 WATER QUALITY
 THIRD FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Judy Etherington by phone at 801-536-4344, by FAX at 801-536-4301, or by Internet E-mail at jetherington@utah.gov

AUTHORIZED BY: Erica Gaddis, Director

EFFECTIVE: 08/02/2018

Insurance, Administration
R590-246
Professional Employer Organization
(PEO) License Application Rule

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43133
 FILED: 08/03/2018

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3)(a) authorizes the Insurance Commissioner to write rules to implement the provisions of the Insurance Code, Title 31A. Section 31A-40-103 requires a rule to prescribe requirements for forms required under Chapter 40, requirements and processes for correcting deficiency in working capital or negative working capital, and a process for correcting it under Section 31A-40-205. Section 31A-40-103 also allows the Insurance Commissioner to make rules to prescribe the requirements for the review and submission of a financial statement, and to prescribe the requirements and processes for when a PEO license is terminated. Section 31A-40-302 requires a rule to establish the procedure for submitting a licensing application form to the Insurance Commissioner. Section 31A-40-306 addresses how to comply with the requirements of Sections 31A-40-205, 31A-40-302, and 31A-40-305 on a combined or consolidated basis.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department of Insurance has received no written comments regarding this rule during the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is important that this rule remain in force. It provides forms and instruction for the licensure of Professional Employer Organizations (PEOs), which are a unique group. Unlike other licensees of the Department, PEOs do not have other guidance contained within the Insurance Code. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 INSURANCE
 ADMINISTRATION
 ROOM 3110 STATE OFFICE BLDG
 450 N MAIN ST
 SALT LAKE CITY, UT 84114-1201
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

AUTHORIZED BY: Steve Gooch, Information Specialist

EFFECTIVE: 08/03/2018

AUTHORIZED BY: Steve Gooch, Information Specialist

EFFECTIVE: 08/03/2018

Insurance, Administration
R590-250
 PEO Assurance Organization
 Designation

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 43134

FILED: 08/03/2018

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-40-303(2) authorizes the Insurance Commissioner to designate by rule one or more assurance organizations to certify the qualifications of a professional employer organization (PEO). The purpose of this rule is to establish a process by which an assurance organization can be designated to certify the qualifications of a professional provider organization.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department of Insurance has received no written comments regarding this rule during the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: As long as the law allows PEOs to be qualified by an assurance organization, this rule will be necessary to provide the steps to become a designated assurance organization. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

INSURANCE
 ADMINISTRATION
 ROOM 3110 STATE OFFICE BLDG
 450 N MAIN ST
 SALT LAKE CITY, UT 84114-1201
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

Insurance, Administration
R590-251
 Preneed Life Insurance Minimum
 Standards For Determining Reserve
 Liabilities And Nonforfeiture Values
 Rule

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 43135

FILED: 08/03/2018

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3) authorizes the Insurance Commissioner to write rules to implement the provisions of the Insurance Code, Title 31A. Subsection 31A-17-402(1) authorizes the Insurance Commissioner to write rules to specify the liabilities required to be reported by an insurer in a financial statement provided to the Department of Insurance (Department), as well as the method for valuing the liabilities listed in the statement. Subsection 31A-22-408(11) authorizes the Insurance Commissioner to adopt rules to interpret, describe, and clarify the application of the nonforfeiture law to a life insurance form that the Insurance Commissioner considers necessary. This rule establishes minimum mortality standards for reserves and nonforfeiture reserves.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has received no written comments regarding this rule during the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must remain in force because it helps protect the public interest on preneed policies by increasing reserves to an appropriate level, promoting a responsible competitive environment by ensuring all insurers act responsibly, creating equitable value for consumers by increasing cash values, and promoting the reliability, solvency, and financial solidarity of insurance institutions by increasing the reserve requirement on preneed policies.

Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED,
DURING REGULAR BUSINESS HOURS, AT:

INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

AUTHORIZED BY: Steve Gooch, Information Specialist

EFFECTIVE: 08/03/2018

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.

Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

Education

Administration

No. 42963 (REP): R277-403. Student Reading Proficiency and Notice to Parents
Published: 07/01/2018
Effective: 08/07/2018

No. 42997 (AMD): R277-406. K-3 Reading Improvement Program and the State Reading Goal
Published: 07/01/2018
Effective: 08/07/2018

No. 42962 (REP): R277-411. School District Sponsored School Seminars on Youth Protection-Related Issues
Published: 07/01/2018
Effective: 08/07/2018

No. 42996 (AMD): R277-463. Class Size Average and Pupil-Teacher Ratio Reporting
Published: 07/01/2018
Effective: 08/07/2018

No. 42991 (AMD): R277-470. Charter Schools - General Provisions
Published: 07/01/2018
Effective: 08/07/2018

No. 42992 (AMD): R277-481. Charter School Oversight, Monitoring and Appeals
Published: 07/01/2018
Effective: 08/07/2018

No. 42998 (AMD): R277-492. Utah Science Technology and Research Initiative (USTAR) Centers Program
Published: 07/01/2018
Effective: 08/07/2018

No. 42999 (AMD): R277-497. School Grading System
Published: 07/01/2018
Effective: 08/07/2018

No. 42993 (AMD): R277-525. Special Educator Stipends
Published: 07/01/2018
Effective: 08/07/2018

No. 42994 (AMD): R277-617. Smart School Technology Program
Published: 07/01/2018
Effective: 08/07/2018

No. 42995 (AMD): R277-619. Student Leadership Skills Development
Published: 07/01/2018
Effective: 08/07/2018

Environmental Quality

Air Quality

No. 42676 (AMD): R307-101-2. Definitions
Published: 04/01/2018
Effective: 08/02/2028

No. 42676 (CPR): R307-101-2. Definitions
Published: 07/01/2018
Effective: 08/02/2018

No. 42675 (AMD): R307-403. Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas
Published: 04/01/2018
Effective: 08/02/2018

NOTICES OF RULE EFFECTIVE DATES

No. 42675 (CPR): R307-403. Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas
Published: 07/01/2018
Effective: 08/02/2018

Insurance

Administration

No. 43000 (R&R): R590-160. Administrative Proceedings
Published: 07/01/2018
Effective: 08/14/2018

No. 43007 (AMD): R590-164. Uniform Health Billing Rule
Published: 07/01/2018
Effective: 08/14/2018

Natural Resources

Wildlife Resources

No. 42965 (AMD): R657-3. Collection, Importation, Transportation, and Possession of Animals
Published: 07/01/2018
Effective: 08/09/2018

No. 42966 (AMD): R657-41. Conservation and Sportsman Permits
Published: 07/01/2018
Effective: 08/09/2018

No. 42967 (AMD): R657-50. Error Remedy
Published: 07/01/2018
Effective: 08/09/2018

No. 42968 (AMD): R657-53. Amphibian and Reptile Collection, Importation, Transportation and Possession
Published: 07/01/2018
Effective: 08/09/2018

No. 42969 (AMD): R657-54. Taking Wild Turkey
Published: 07/01/2018
Effective: 08/09/2018

No. 42970 (AMD): R657-55. Wildlife Expo Permits
Published: 07/01/2018
Effective: 08/09/2018

No. 42971 (AMD): R657-56. Recreational Lease of Private Lands for Free Public Walk-in Access
Published: 07/01/2018
Effective: 08/09/2018

No. 42972 (AMD): R657-57. Division Variance Rule
Published: 07/01/2018
Effective: 08/09/2018

No. 42973 (AMD): R657-62. Drawing Application Procedures
Published: 07/01/2018
Effective: 08/09/2018

No. 42974 (AMD): R657-64. Predator Control Incentives
Published: 07/01/2018
Effective: 08/09/2018

No. 42975 (AMD): R657-69. Turkey Depredation
Published: 07/01/2018
Effective: 08/09/2018

School and Institutional Trust Lands

Administration

No. 42945 (AMD): R850-6-200. Definitions
Published: 07/01/2018
Effective: 08/07/2018

End of the Notices of Rule Effective Dates Section

**RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)**

The Rules Index is a cumulative index that reflects all effective changes to Utah's administrative rules. The current Index lists changes made effective from January 2, 2018 through August 15, 2018. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules Index of Changes. Nonsubstantive changes, while not published in the Bulletin, do become part of the Utah Administrative Code (Code) and are included in this Index, as well as 120-Day (Emergency) rules that do not become part of the Code. The rules are indexed by Agency (Code Number) and Keyword (Subject).

Questions regarding the index and the information it contains should be addressed to the Office of Administrative Rules (801-538-3003).

A copy of the **RULES INDEX** is available for public inspection at the Office of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Office's web site (<https://rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>Administration</u>					
R13-1	Public Petitions for Declaratory Orders	43059	5YR	07/05/2018	2018-15/99
R13-3	Americans with Disabilities Act Grievance Procedures	42634	AMD	04/23/2018	2018-6/4
<u>Facilities Construction and Management</u>					
R23-5	Contingency Funds	42347	AMD	01/23/2018	2017-24/8
R23-9	Cooperation with Local Government Planning	42348	AMD	01/23/2018	2017-24/9
R23-23	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	42846	AMD	06/26/2018	2018-10/6
R23-30	State Facility Energy Efficiency Fund	43069	5YR	07/11/2018	2018-15/99
<u>Finance</u>					
R25-5	Payment of Meeting Compensation (Per Diem) to Boards	42570	5YR	02/08/2018	2018-5/141
R25-6	Relocation Reimbursement	42571	5YR	02/08/2018	2018-5/141
R25-7	Travel-Related Reimbursements for State Employees	42572	5YR	02/08/2018	2018-5/142
R25-7	Travel-Related Reimbursements for State Employees	42854	AMD	06/21/2018	2018-10/9
R25-7-6	Reimbursement for Meals	43008	NSC	07/03/2018	Not Printed
R25-8	Overtime Meal Allowance	42573	5YR	02/08/2018	2018-5/142
<u>Inspector General of Medicaid Services (Office of)</u>					
R30-1	Office of Inspector General of Medicaid Services	42658	REP	06/01/2018	2018-7/6
R30-1	Office Procedures	42694	NEW	06/01/2018	2018-7/10
R30-2	Adjudicative Procedures	42695	NEW	06/01/2018	2018-7/14
R30-3	Declaratory Orders	42696	NEW	06/01/2018	2018-7/17
<u>Purchasing and General Services</u>					
R33-7	Request for Proposals	42932	AMD	07/26/2018	2018-12/6
<u>Risk Management</u>					
R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgments	42934	EMR	07/01/2018	2018-12/39
AGRICULTURE AND FOOD					
<u>Administration</u>					
R51-5	Rural Rehabilitation Loans	42559	NEW	05/02/2018	2018-5/4
R51-6	Agricultural Advisory Board Electronic Meeting	42472	NEW	03/23/2018	2018-3/4

Conservation Commission

R64-2 Conservation Commission Electronic Meetings 42944 5YR 06/01/2018 2018-12/43

Plant Industry

R68-5 Grain Inspection 42530 5YR 01/30/2018 2018-4/95
 R68-5 Grain Inspection 42531 NSC 02/27/2018 Not Printed
 R68-9 Utah Noxious Weed Act 42943 5YR 06/01/2018 2018-12/43
 R68-14 Quarantine Pertaining to Gypsy Moth -
 Lymantria Dispar 42721 5YR 03/26/2018 2018-8/145
 R68-16 Quarantine Pertaining to Pine Shoot Beetle,
 Tomicus piniperda 42930 5YR 05/23/2018 2018-12/44
 R68-20 Utah Organic Standards 42872 AMD 07/09/2018 2018-11/6

Regulatory Services

R70-940 Standards and Testing of Motor Fuel 42422 R&R 02/22/2018 2018-2/6

ALCOHOLIC BEVERAGE CONTROL

Administration

R81-4C Limited Restaurant Licenses 43057 5YR 07/03/2018 2018-15/100
 R81-4D On-Premise Banquet License 43058 5YR 07/03/2018 2018-15/101
 R81-10 Off-Premise Beer Retailers 42931 5YR 05/23/2018 2018-12/44

ATTORNEY GENERAL

Administration

R105-2 Records Access and Management 42367 AMD 02/07/2018 2018-1/2

CAREER SERVICE REVIEW OFFICE

Administration

R137-2 Government Records Access and Management Act 42779 5YR 04/09/2018 2018-9/69

COMMERCE

Consumer Protection

R152-1 Utah Division of Consumer Protection Buyer
 Beware List 42827 NSC 04/26/2018 Not Printed
 R152-1a Internet Content Provider Ratings Methods 42828 NSC 04/26/2018 Not Printed
 R152-6 Utah Administrative Procedures Act Rules 42830 NSC 04/26/2018 Not Printed
 R152-11 Utah Consumer Sales Practices Act 42831 NSC 04/26/2018 Not Printed
 R152-15 Business Opportunity Disclosure Act Rules 42832 NSC 04/26/2018 Not Printed
 R152-20 New Motor Vehicle Warranties 42833 NSC 04/26/2018 Not Printed
 R152-21 Credit Services Organizations Act Rules 42834 NSC 04/26/2018 Not Printed
 R152-22 Charitable Solicitations Act 42835 NSC 04/26/2018 Not Printed
 R152-23 Utah Health Spa Services 42836 NSC 04/26/2018 Not Printed
 R152-26 Telephone Fraud Prevention Act 42837 NSC 04/26/2018 Not Printed
 R152-32a Pawnshop and Secondhand Merchandise
 Transaction Information Act Rules 42838 NSC 04/26/2018 Not Printed
 R152-32a Pawnshop and Secondhand Merchandise
 Transaction Information Act Rule 42929 5YR 05/17/2018 2018-12/45
 R152-34 Postsecondary Proprietary School Act Rules 42839 NSC 04/26/2018 Not Printed
 R152-34a Utah Postsecondary School State Authorization
 Act Rules 42840 NSC 04/26/2018 Not Printed
 R152-39 Child Protection Registry Rules 42841 NSC 04/26/2018 Not Printed
 R152-42 Uniform Debt-Management Services Act Rules 42842 NSC 04/26/2018 Not Printed
 R152-49 Immigration Consultants Registration Act Rules 42843 NSC 04/26/2018 Not Printed

Occupational and Professional Licensing

R156-1 General Rule of the Division of Occupational
 and Professional Licensing 42582 AMD 04/09/2018 2018-5/7
 R156-5a Podiatric Physician Licensing Act Rule 42869 5YR 05/01/2018 2018-10/155
 R156-11a Cosmetology and Associated Professions
 Licensing Act Rule 42778 AMD 06/07/2018 2018-9/4
 R156-24b-102 Definitions 42623 NSC 03/14/2018 Not Printed
 R156-31b Nurse Practice Act Rule 42448 5YR 01/08/2018 2018-3/69

RULES INDEX

R156-37c	Utah Controlled Substance Precursor Act Rule	42848	5YR	04/24/2018	2018-10/155
R156-46b-401	In General	42428	NSC	01/18/2018	Not Printed
R156-55b-102	Definitions	42429	NSC	01/18/2018	Not Printed
R156-63a	Security Personnel Licensing Act Contract Security Rule	42925	5YR	05/15/2018	2018-11/55
R156-63b	Security Personnel Licensing Act Armored Car Rule	42924	5YR	05/15/2018	2018-11/56
R156-68	Utah Osteopathic Medical Practice Act Rule	42447	5YR	01/08/2018	2018-3/70
R156-70a	Physician Assistant Practice Act Rule	42807	AMD	06/21/2018	2018-10/24
R156-71	Naturopathic Physician Practice Act Rule	42785	AMD	06/07/2018	2018-9/8
R156-72	Acupuncture Licensing Act Rule	42338	AMD	01/23/2018	2017-24/11
R156-74	Certified Court Reporters Licensing Act Rule	42847	5YR	04/24/2018	2018-10/156
R156-78-502	Unprofessional Conduct	42243	AMD	01/02/2018	2017-22/28

Real Estate

R162-2c	Utah Residential Mortgage Practices and Licensing Rules	42809	AMD	07/13/2018	2018-10/27
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CORRECTIONS

Administration

R251-114	Offender Long-Term Health Care - Notice	42637	5YR	03/07/2018	2018-7/161
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EDUCATION

Administration

R277-100	Definitions for Utah State Board of Education (Board) Rules	42749	NSC	04/12/2018	Not Printed
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R612-300	Workers' Compensation Rules - Medical Care	42563	5YR	02/08/2018	2018-5/149
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R634-3	Compensatory Mitigation Program	42309	CPR	03/26/2018	2018-4/71

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R652-123	Wildland Fire Suppression Cost Recovery Procedure	42928	NEW	07/23/2018	2018-12/22

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R647-6	Inspection and Enforcement: Division Authority and Procedures	42505	5YR	01/24/2018	2018-4/108

R647-7	Inspection and Enforcement: Civil Penalties	42506	5YR	01/24/2018	2018-4/108
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R651-407	Off-Highway Vehicle Advisory Council	42682	5YR	03/13/2018	2018-7/181
R651-601	Definitions as Used in These Rules	42989	5YR	06/13/2018	2018-13/143
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R651-605	Begging and Soliciting	42949	5YR	06/07/2018	2018-13/145
R651-606	Camping	42950	5YR	06/07/2018	2018-13/145
R651-607	Disorderly Conduct	42952	5YR	06/07/2018	2018-13/146
R651-608	Events of Special Uses	42953	5YR	06/07/2018	2018-13/146
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R651-614	Fishing, Hunting and Trapping	42960	5YR	06/07/2018	2018-13/148
R651-615	Motor Vehicle Use	42961	5YR	06/07/2018	2018-13/148
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R651-617	Permit Violation	42982	5YR	06/13/2018	2018-13/149
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R651-630	Unsupervised Children	42988	5YR	06/13/2018	2018-13/152
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R657-41	Conservation and Sportsman Permits	42379	AMD	02/07/2018	2018-1/38
R657-41	Conservation and Sportsman Permits	42966	AMD	08/09/2018	2018-13/72
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R657-53	Amphibian and Reptile Collection, Importation, Transportation and Possession	42968	AMD	08/09/2018	2018-13/86
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R657-62	Drawing Application Procedures	42973	AMD	08/09/2018	2018-13/101
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R856-5	Utah Science, Technology, and Research (USTAR) Energy Research Triangle Professors (ERT-P) Grant	42356	R&R	01/23/2018	2017-24/48
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R916-4	Construction Manager/General Contractor Contracts	42616	AMD	04/23/2018	2018-6/28

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R994-307	Social Costs -- Relief of Charges	42739	5YR	03/29/2018	2018-8/159
R994-315	Centralized New Hire Registry Reporting	42740	5YR	03/29/2018	2018-8/159
R994-403	Claim for Benefits	42741	5YR	03/29/2018	2018-8/160
R994-405	Ineligibility for Benefits	42742	5YR	03/29/2018	2018-8/161
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ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

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<u>abusive conduct</u> Education, Administration Human Resource Management, Administration	42921 42821	R277-613 R477-16	R&R AMD	07/09/2018 07/01/2018	2018-11/27 2018-10/94
<u>accountability</u> Education, Administration	42755	R277-109	NSC	04/12/2018	Not Printed
<u>accreditation</u> Education, Administration	42885 43050	R277-410 R277-505	NSC NSC	05/17/2018 07/06/2018	Not Printed Not Printed
<u>acquit</u> Pardons (Board Of), Administration	42586	R671-519	5YR	02/13/2018	2018-5/155
<u>activities</u> Education, Administration	43031	R277-494	NSC	07/06/2018	Not Printed
<u>acupuncture</u> Commerce, Occupational and Professional Licensing	42338	R156-72	AMD	01/23/2018	2017-24/11
<u>ADAP</u> Health, Disease Control and Prevention; HIV/AIDS, Tuberculosis Control/Refugee Health	42328	R388-805	AMD	02/01/2018	2017-23/28
<u>adhesives</u> Environmental Quality, Air Quality	42653	R307-342	5YR	03/08/2018	2018-7/170
<u>adjudicative procedures</u> Administrative Services, Inspector General of Medicaid Services (Office of)	42695	R30-2	NEW	06/01/2018	2018-7/14
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<u>magnet wire</u>						
Environmental Quality, Air Quality	42543	R307-348	EXT	01/31/2018	2018-4/114	
	42659	R307-348	5YR	03/08/2018	2018-7/172	
<u>maintenance</u>						
Transportation, Operations, Maintenance	42392	R918-6	AMD	02/07/2018	2018-1/53	
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School and Institutional Trust Lands, Administration	42678	R850-40	AMD	05/08/2018	2018-7/137	
<u>manufactured home community</u>						
Health, Disease Control and Prevention, Environmental Services	42731	R392-402	R&R	05/24/2018	2018-8/89	
<u>manufactured homes</u>						
Health, Disease Control and Prevention, Environmental Services	42731	R392-402	R&R	05/24/2018	2018-8/89	
<u>market trading program</u>						
Environmental Quality, Air Quality	42535	R307-250	EXT	01/31/2018	2018-4/113	
	42650	R307-250	5YR	03/08/2018	2018-7/168	
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Commerce, Consumer Protection	42832	R152-15	NSC	04/26/2018	Not Printed	
<u>materials</u>						
Education, Administration	42760	R277-120	NSC	04/12/2018	Not Printed	
<u>math teaching training</u>						
Education, Administration	43034	R277-498	NSC	07/06/2018	Not Printed	
<u>Medicaid</u>						
Health, Health Care Financing	42517	R410-14	EMR	01/29/2018	2018-4/81	
	42746	R410-14	AMD	05/29/2018	2018-8/95	
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	42625	R414-2A-7	AMD	05/08/2018	2018-6/11	
	42180	R414-3A	AMD	03/05/2018	2017-20/26	
	42180	R414-3A	CPR	03/05/2018	2018-2/42	
	42594	R414-3A-5	AMD	05/08/2018	2018-5/42	

	42306	R414-4x	REP	01/19/2018	2017-23/49
	43122	R414-9	5YR	07/27/2018	2018-16/33
	42427	R414-27	5YR	01/02/2018	2018-2/54
	42871	R414-42	AMD	07/01/2018	2018-10/45
	43053	R414-42	5YR	07/02/2018	2018-14/52
	42782	R414-52	5YR	04/10/2018	2018-9/71
	42783	R414-53	5YR	04/10/2018	2018-9/71
	42626	R414-60	AMD	05/01/2018	2018-6/13
	42787	R414-60A	AMD	06/27/2018	2018-9/61
	42788	R414-60B	AMD	06/27/2018	2018-9/63
	42936	R414-61-2	AMD	07/27/2018	2018-12/14
	42440	R414-301	5YR	01/08/2018	2018-3/83
	42441	R414-302	5YR	01/08/2018	2018-3/84
	42487	R414-302-6	EMR	01/19/2018	2018-4/85
	42627	R414-302-6	AMD	05/08/2018	2018-6/15
	42444	R414-305	5YR	01/08/2018	2018-3/85
	42446	R414-308	5YR	01/08/2018	2018-3/86
	42488	R414-308-3	EMR	01/19/2018	2018-4/87
	42628	R414-308-3	AMD	05/08/2018	2018-6/17
	42489	R414-311	EMR	01/19/2018	2018-4/90
	42629	R414-311	NEW	05/08/2018	2018-6/20
	42851	R414-401-3	AMD	07/01/2018	2018-10/47
	42935	R414-508	5YR	05/25/2018	2018-12/46
	42490	R414-509	REP	04/11/2018	2018-4/41
	42941	R414-510	R&R	07/27/2018	2018-12/16
	42353	R414-517	AMD	01/29/2018	2017-24/16
	42635	R414-519	NEW	05/25/2018	2018-7/112
<u>Medicaid abuse</u>					
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	42694	R30-1	NEW	06/01/2018	2018-7/10
<u>Medicaid fraud</u>					
Administrative Services, Inspector General of Medicaid Services (Office of)	42658	R30-1	REP	06/01/2018	2018-7/6
	42694	R30-1	NEW	06/01/2018	2018-7/10
<u>Medicaid waste</u>					
Administrative Services, Inspector General of Medicaid Services (Office of)	42658	R30-1	REP	06/01/2018	2018-7/6
	42694	R30-1	NEW	06/01/2018	2018-7/10
<u>medical incinerator</u>					
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	42647	R307-222	5YR	03/08/2018	2018-7/166
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	42567	R612-300-4	AMD	04/09/2018	2018-5/46
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	43128	R525-3	NSC	08/09/2018	Not Printed
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	42663	R307-352	5YR	03/08/2018	2018-7/175	
<u>metal furniture</u>						
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	42502	R647-3	5YR	01/24/2018	2018-4/106	
	42503	R647-4	5YR	01/24/2018	2018-4/106	
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	42493	R657-62	AMD	03/26/2018	2018-4/57	
	42973	R657-62	AMD	08/09/2018	2018-13/101	
	42974	R657-64	AMD	08/09/2018	2018-13/107	
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	42813	R477-5	AMD	07/01/2018	2018-10/63	
	42814	R477-6	AMD	07/01/2018	2018-10/65	
	42817	R477-9	AMD	07/01/2018	2018-10/84	
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Commerce, Occupational and Professional Licensing	42623	R156-24b-102	NSC	03/14/2018	Not Printed	
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Commerce, Occupational and Professional Licensing	42623	R156-24b-102	NSC	03/14/2018	Not Printed	
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	43111	R277-916	NSC	08/01/2018	Not Printed
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<u>sanitation</u> Health, Disease Control and Prevention, Environmental Services	42684	R392-100	AMD	05/18/2018	2018-7/93
	42685	R392-102	NEW	05/18/2018	2018-7/97
	42491	R392-700	5YR	01/19/2018	2018-4/97
<u>satellite</u> Education, Administration	42610	R277-482	AMD	04/09/2018	2018-5/22
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<u>school buses</u> Education, Administration	43060	R277-600	NSC	07/26/2018	Not Printed
	43061	R277-601	NSC	07/26/2018	Not Printed
<u>school community councils</u> Education, Administration	42800	R277-477	AMD	06/07/2018	2018-9/13
	42323	R277-491-4	AMD	01/09/2018	2017-23/9
<u>school counselors</u> Education, Administration	42923	R277-461	NEW	07/09/2018	2018-11/25
<u>school enrollment</u> Education, Administration	42889	R277-419	NSC	05/17/2018	Not Printed
	42899	R277-445	NSC	05/17/2018	Not Printed
<u>school fees</u> Education, Administration	42883	R277-407	NSC	05/17/2018	Not Printed
<u>school grading accountability</u> Education, Administration	42999	R277-497	AMD	08/07/2018	2018-13/24
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	43112	R277-920	NSC	08/01/2018	Not Printed
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	43112	R277-920	NSC	08/01/2018	Not Printed
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<u>school personnel</u> Education, Administration	42910	R277-107	5YR	05/11/2018	2018-11/57
	42915	R277-107	AMD	07/09/2018	2018-11/12
	42762	R277-508	5YR	04/02/2018	2018-8/145
	42698	R277-508	AMD	05/08/2018	2018-7/24
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	42857	R277-113	NEW	06/22/2018	2018-10/28

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	43061	R277-601	NSC	07/26/2018	Not Printed

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	42951	R384-201	5YR	06/07/2018	2018-13/141

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	42884	R277-409	NSC	05/17/2018	Not Printed
	43021	R277-474	NSC	07/06/2018	Not Printed
	42800	R277-477	AMD	06/07/2018	2018-9/13
	42958	R277-617	5YR	06/07/2018	2018-13/140
	42994	R277-617	AMD	08/07/2018	2018-13/30
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	42614	R277-719	AMD	04/09/2018	2018-5/39
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	43084	R277-492	5YR	07/13/2018	2018-15/102
	42998	R277-492	AMD	08/07/2018	2018-13/20

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	42630	R495-885	AMD	07/18/2018	2018-6/23
	42630	R495-885	CPR	07/18/2018	2018-11/50

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<u>tobacco retailers</u> Health, Disease Control and Prevention, Health Promotion	42870	R384-324	NEW	07/09/2018	2018-10/42
<u>tow trucks</u> Transportation, Motor Carrier	42336	R909-19	AMD	01/24/2018	2017-24/60
<u>towing</u> Transportation, Motor Carrier	42336	R909-19	AMD	01/24/2018	2017-24/60
<u>traction devices</u> Transportation, Operations, Traffic and Safety	42689	R920-6	AMD	05/08/2018	2018-7/151
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<u>training programs</u> Human Resource Management, Administration	42818	R477-10	AMD	07/01/2018	2018-10/87
<u>transfers</u> Education, Administration	43020	R277-472	NSC	07/06/2018	Not Printed
<u>Transition to Adult Living</u> Human Services, Child and Family Services	42603	R512-305	5YR	02/15/2018	2018-5/146
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<u>transportation safety</u> Transportation, Motor Carrier	42494	R909-1	AMD	03/28/2018	2018-4/63
<u>trauma-informed practice</u> Education, Administration	42923	R277-461	NEW	07/09/2018	2018-11/25
<u>treatment and care</u> Health, Disease Control and Prevention; HIV/AIDS, Tuberculosis Control/Refugee Health	42328	R388-805	AMD	02/01/2018	2017-23/28
<u>trespass</u> Natural Resources, Parks and Recreation	42986	R651-620	5YR	06/13/2018	2018-13/151
<u>truancy</u> Education, Administration	43065	R277-607	NSC	07/26/2018	Not Printed
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Education, Administration	42891	R277-421	NSC	05/17/2018	Not Printed	
<u>turkey</u>						
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Health, Disease Control and Prevention, Environmental Services	42491	R392-700	5YR	01/19/2018	2018-4/97	
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	42736	R994-202	5YR	03/29/2018	2018-8/157	
	42737	R994-208	5YR	03/29/2018	2018-8/158	
	42738	R994-306	5YR	03/29/2018	2018-8/158	
	42739	R994-307	5YR	03/29/2018	2018-8/159	
	42741	R994-403	5YR	03/29/2018	2018-8/160	
	42742	R994-405	5YR	03/29/2018	2018-8/161	
	42861	R994-405	AMD	06/21/2018	2018-10/144	
	42743	R994-508	5YR	03/29/2018	2018-8/161	
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	42359	R856-3	R&R	01/23/2018	2017-24/36	

	42358	R856-4	R&R	01/23/2018	2017-24/41
	42356	R856-5	R&R	01/23/2018	2017-24/48
	42355	R856-6	R&R	01/23/2018	2017-24/54
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	42713	R436-7	5YR	03/21/2018	2018-8/151
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	42966	R657-41	AMD	08/09/2018	2018-13/72	
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