

# 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 801-957-7110. Additional rulemaking information and electronic versions of all administrative rule publications are available at <https://rules.utah.gov/>.

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

Office of Administrative Rules, Salt Lake City 84114

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## NOTICES OF PROPOSED RULES

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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 November 02, 2021, 12:00 a.m., and November 15, 2021, 11:59 p.m. are included in this, the December 01, 2021, 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 Rules being repealed are completely struck out.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 January 03, 2022. 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 March 31, 2022, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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

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

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**The Proposed Rules Begin on the Following Page**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R58-11	Filing ID 54114

**Agency Information**

<b>1. Department:</b>	Agriculture and Food	
<b>Agency:</b>	Animal Industry	
<b>Street address:</b>	350 N Redwood Road	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146500	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6500	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amber Brown	801-982-2204	ambermbrown@utah.gov
Leann Hunting	801-982-2242	leannhunting@utah.gov
Kelly Pehrson	801-982-2200	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R58-11. Slaughter of Livestock and Poultry
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
The changes are necessary to ensure that the Model Food Code is being followed with regard to labeling requirements for poultry subject to the 1,000 bird exemption under Subsection R58-11-8(3).
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
Subsection R58-11-8(3) has been amended to add labeling requirements for poultry subject to the 1,000 bird exemption. This includes requirements that the label contain the name of the product and the name and business location of the processor. These requirements are consistent with the requirements of the Model Food Code of 2013 Paragraph 3-602.11(B), which has been adopted by the Department of Agriculture and Food (Department) in Section R70-530-3. Additional nonsubstantive changes have been made to make the text

more compliant with the requirements of the Utah Rulewriting Manual.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This change should not impact the state budget because this is a small clarification and the Department is able to continue to administer the poultry inspection and regulatory food programs utilizing existing resources.
<b>B) Local governments:</b>
This change should not impact local governments because they do not operate as exempt poultry processors.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
This change should not impact small businesses that operate under the 1,000 bird exemption because the change clarifies currently labeling requirements for food sold at food establishments.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
This change should not impact non-small businesses because they do not act as exempt poultry producers under this rule.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):</b>
This change should not impact other persons because they do not act as exempt poultry producers under this rule.
<b>F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):</b>
Compliance costs for affected persons should not change because the rule change merely codifies and clarifies an existing requirement for food sold at food establishments.
<b>G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):</b>
This rule should not have a fiscal impact on businesses. Craig W. Buttars, Commissioner

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**

The Commissioner of the Utah Department of Agriculture and Food, Craig W. Buttars, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 4-32-109	Section 4-5-104	
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 01/03/2022

**10. This rule change MAY become effective on:** 01/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Craig W. Buttars, Commissioner	<b>Date:</b>	11/09/2021
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**R58. Agriculture and Food, Animal Industry.**

**R58-11. Slaughter of Livestock and Poultry.**

**R58-11-1. Authority.**

Promulgated under authority of Section 4-32-109.

**R58-11-2. Definitions.**

(1) "Adulterated" means any meat or poultry product as described in Subsection 4-32-105(1).

(2) "Bill of Sale for Hides" means a hide release or other formal means of transferring the title of a hide.

(3) "Business" means an individual or organization receiving remuneration for a service.

(4) "Commissioner" means the Commissioner of Agriculture or their designee.

(5) "Custom Slaughter-Release Permit" means a permit that serves as a [b]Brand [i]Inspection [e]Certificate and allows an animal owner to have their animal farm custom slaughtered.

(6) "Department" means the Utah Department of Agriculture and Food.

(7) "Detain or Embargo" means the holding of a food or food product for legal verification of adulteration, misbranding, or proof of ownership.

(8) "Emergency Slaughter" for the purpose of this rule, does not include slaughter of non-ambulatory injured cattle. For the purposes of this chapter, non-ambulatory disabled cattle that cannot rise from a recumbent position or cannot walk, including, those with broken appendages, severed tendons or ligaments, nerve paralysis, fractured vertebral column or metabolic conditions, are not allowed to be slaughtered for food.

(9) "Farm Custom Slaughtering" means the slaughtering, skinning, and preparing of livestock and poultry by humane means for the purpose of human consumption that is done at a place other than a licensed slaughtering house by a person who is not the owner of the animal.

(10) "Food" means a product intended for human consumption.

(11) "Immediate Family" means persons living together in a single dwelling unit and their sons and daughters.

(12) "License" means a license issued by the Utah Department of Agriculture and Food to allow farm custom slaughtering.

(13) "Licensee" means a person who possesses a valid farm custom slaughtering license.

NOTICES OF PROPOSED RULES

(14) "Misbranded" means any meat or poultry product as described in Subsection 4-32-105 (27).

(15) "Owner" means a person holding legal title to the animal.

(17) "Commerce" means the exchange transportation of poultry product between states, U.S. territories, including Guam, Virgin Islands of the United States, American Samoa, and the District of Columbia.

**R58-11-3. Sanitation Standards.**

Sanitation standards shall include:

(1) Sanitary operating conditions: Food-contact surfaces and non-food-contact surfaces shall be cleaned and sanitized as frequently as necessary to prevent the creation of insanitary conditions and the adulteration of product. Cleaning compounds, sanitizing agents, processing aids, and other chemicals used shall be safe and effective under the conditions of use. These chemicals shall be used, handled, and stored in a manner that will not adulterate product or create insanitary conditions. Documentation substantiating the safety of a chemical's use in a food processing environment shall be available to inspection program employees for review. Product shall be protected from adulteration during processing, handling, storage, loading, and unloading, and during transportation.

(2) Grounds and pest control: Grounds shall be maintained to prevent conditions that could lead to insanitary conditions or adulteration of product. A pest management program shall be in place to prevent the harborage and breeding of pests on the grounds and within buildings. The pest control program shall be capable of preventing product adulteration. Every effort shall be made to prevent entry of rodents, insects, or animals into areas where product is handled, processed, or stored. Each opening leading to the outside or to an area holding inedible product shall have an effective closure that completely fills the opening. Each area inside and outside shall be maintained to prevent harborage of rodents and insects. Any pest control substance used shall be safe and effective under the conditions of use and shall not be applied or stored in a manner that would result in the adulteration of product or the creation of insanitary conditions.

(3) Each sewage and waste disposal system shall properly remove sewage and waste material such as feces, feathers, trash, garbage, and paper. Sewage shall be disposed of into a sewage system separate from other drainage lines or disposed of through other means sufficient to prevent backup of sewage into areas where product is processed, handled, or stored. If the sewage disposal system is a private system requiring approval by a state or local health authority, a letter of approval from that authority to the inspector shall be provided upon request.

(4) A supply of running water that complies with the National Primary Drinking Water regulations, 40 CFR 141, at a suitable temperature and under pressure as needed, shall be provided in any area where required for processing product; for cleaning rooms and equipment, utensils, and packaging materials; and for employee sanitary facilities. If a municipal water supply is used, the supplier shall provide a water report, issued under the authority of the state or local health agency, certifying or attesting to the potability of the water supply, and make the report available to the inspector, upon request. If a private well is used, the potability of the water supply shall be documented at least semi-annually and documentation shall be made available to the inspector, upon request.

(5) Maintenance of facilities during slaughtering and processing shall be accomplished in a manner to ensure the production of wholesome, unadulterated product.

(6) Dressing rooms, toilet rooms, and urinals shall be sufficient in number, ample in size, conveniently located, and maintained in a sanitary condition and in good repair to ensure cleanliness of any person handling any product. Dressing rooms, lavatories, and toilets shall be separate from the rooms and compartments in which products are processed, stored, or handled.

(7) Inedible material shall be handled and maintained in a manner that prevents the diversion of inedible animal product into human food channels and prevents the adulteration of human food.

**R58-11-4. Farm Custom Slaughtering License.**

(1) Any person who desires to do farm custom slaughtering shall apply to the department for a Farm Custom Slaughtering License.

(2) An application for a Farm Custom Slaughtering license shall be on a form provided by the department. The application shall show:

- (a) the name, address, and telephone number of the owner;
- (b) the name, address, and telephone number of the operator if it is different than the owner; and
- (c) a brief description of the vehicle to be used, along with the license number.

(3) Farm Custom Slaughtering licenses will be valid for the calendar year. Each licensee will be required to re-apply for a license each calendar year. Change of ownership or change of vehicle license will require a new application to be filed with the department.

(4) Farm Custom Slaughtering licensure will not be recognized as complete until the applicant has demonstrated the ability to slaughter and has completed and signed the license application form.

(5) A fee, as set forth in the fee schedule approved by the legislature, shall be paid prior to license issuance.

**R58-11-5. Equipment and Sanitation Requirements-Farm Custom Slaughter.**

The following equipment and sanitation requirements shall apply to farm custom slaughtering:

(1) The unit or vehicle used for farm custom slaughtering shall be constructed so as to permit maintenance consistent with the sanitation standards listed in Section R58-11-3.

(2) A tripod or rail capable of lifting a carcass to a height that enables the carcass to clear the ground for bleeding and evisceration shall be incorporated into the unit or vehicle. Any hook, gamble, or rack used to hoist and eviscerate animals shall be of easily cleanable metal construction.

(3) Knives, scabbards, saws, and other equipment shall be of rust resistant metal or other impervious easily cleanable material. [—(a)] A clean dust proof container shall be used to transport and store each instrument and utensil used in slaughtering animals.

(4) A water tank shall be an integral part of the unit or vehicle. It shall be of approved construction with a minimum capacity of 40 gallons. Each water system shall be maintained according to sanitary standards, and only potable water shall be used.

(5) A sanitation tank large enough to allow complete immersion of each tool used for slaughtering shall be filled during slaughter operations with potable water and maintained at a

temperature of at least 180 degrees Fahrenheit. In lieu of 180 degrees Fahrenheit water, chemical sterilization may be used with an approved chemical agent after equipment has been thoroughly cleaned. Chloramine, hypochlorite, and quaternary ammonium compounds or other approved chemical compounds may be used for this purpose and a concentration shall be maintained at a sufficient level to disinfect each utensil. Hot water, cleaning agents, and disinfectant shall be available if chemicals are used in lieu of 180 degrees Fahrenheit water.

(6) Cleaning agents and paper towels shall be available so hands and equipment may be cleaned as needed.

(7) Any apron, frock, ~~or~~ and other outer clothing worn by a person who handles meat ~~must~~ shall be clean and of material that is easily cleanable.

(8) Any inedible product and offal will be denatured, pursuant to 9 CFR 325.13 with either an approved denaturing agent or by use of pounce material as a natural denaturing agent.

(9) When a licensee transports uninspected meat to an establishment for processing, they shall:

(a) do so in a manner whereby product will not be adulterated or misbranded, or mislabeled; ~~and~~

(b) transport the meat in such a way that it is properly protected; and

(c) deliver carcasses in ~~such~~ a way that they shall be placed under refrigeration at a temperature at or below 40 degrees Fahrenheit within one hour of the time of slaughter.

(10) Sanitation.

(a) Unit or Vehicle.

(i) ~~The~~ Each unit or vehicle ~~must~~ shall be thoroughly cleaned after each daily use.

(ii) Food-contact and non-food ~~-~~ contact surfaces of utensils and equipment ~~must~~ shall be cleaned and sanitized as necessary to prevent the creation of insanitary conditions and the adulteration of carcasses and parts.

(iii) Carcasses shall be protected from adulteration during processing, handling, storage, loading, unloading, and during transportation to processing establishments.

(b) Equipment.

(i) Knives, scabbards, saws, and other food ~~-~~ contact surfaces shall be cleaned and sanitized prior to slaughter and as needed to prevent adulteration.

(ii) Equipment shall be cleaned and sanitized after each slaughter and immediately before each slaughter.

(c) Inedible.

(i) Inedible shall be placed in designated containers and be properly denatured, and the inedible containers shall be clearly marked "Inedible Not For Human Consumption" in letters not less than 4 inches in height.

(ii) Containers for inedible shall be kept clean and properly separated from edible carcasses to prevent adulteration.

(d) Personal Cleanliness.

(i) Adequate care shall be taken to prevent contamination of the carcasses from fecal material, ingesta, milk, perspiration, hair, cosmetics, medication, and similar substances.

(ii) Outer clothing worn by a permittee while handling exposed carcasses shall be clean.

(iii) No licensee with a communicable disease or who is a disease carrier or is infected with boils, infected wounds, sores, or an acute respiratory infection shall participate in livestock slaughtering.

(iv) Hand wash facilities shall be used as needed to maintain good personal hygiene.

#### **R58-11-6. Slaughtering Procedures of Livestock.**

License holders shall ensure the following procedures are followed:

(1) Slaughter Area

(a) Slaughtering may not take place under adverse conditions such as blowing dirt, dust, or in mud.

(b) If a slaughter area is used for repeated kills, the area should be maintained to prevent blood from collecting, running off on to adjacent property, or contaminating a water source.

(c) Hides, viscera, blood, pounce material, and tissue shall be removed and disposed at a rendering facility, landfill, composting, or by burial as allowed by law.

(2) Humane Slaughter. Each animal shall be rendered insensible to pain by a single blow, or gun shot or electrical shock, or other means that is instantaneous and effective before being shackled, hoisted, thrown, cast or cut.

(3) Hoisting and Bleeding. Each animal shall be hoisted and bled as soon after stunning as possible to utilize post-stunning heart action and to obtain complete bleeding. Carcasses shall be moved away from the bleeding area for skinning and butchering.

(4) Skinning. Carcass and head skin shall be handled without neck tissue contamination. This may be done by leaving the ears on the hide and tying the head skin. Feet shall be removed before carcass is otherwise cut. Except for skinning and starting skinning procedures, skin should be cut from inside outward to prevent carcass contamination with cut hair. Hair side of hide should be carefully rolled or reflected away from carcass during skinning. When carcass is moved from skinning bed, caution should be taken to prevent exposed parts from coming in contact with adulterating surfaces.

(5) Evisceration. Before evisceration, rectum shall be tied to include bladder neck and to prevent urine and fecal leakage. Care should also be taken while opening abdominal cavities to prevent carcass or viscera contamination.

(6) Carcass washing. Hair, dirt, and other accidental contamination should be trimmed prior to washing. Washing should proceed from the carcass top downward to move away any possible contaminants from clean areas.

#### **R58-11-7. Identification and Records.**

(1) Livestock Identification. Pursuant to Section 4-24-304, it shall be unlawful for any license holder to slaughter livestock which do not have a Brand Inspection Certificate or Farm Custom Slaughter Tag filled out at the time of slaughter.

(a) Animal owners shall have a Brand Inspection Certificate for livestock intended to be farm custom slaughtered, issued by a department Brand Inspector prior to slaughter, and shall pay the legal brand inspection fee and beef promotion fee. This is accomplished by the animal owner contacting a ~~D~~ department Brand Inspector and obtaining a Brand Inspection Certificate, ~~{~~ Custom Slaughter-Release Permit ~~}~~.

(b) Animal owners shall obtain farm custom slaughter identification tags from a ~~D~~ department Brand Inspector for a fee of \$1 each. These tags will be required on beef, pork, and sheep.

(2) Records.

(a) The Custom Slaughter-Release Permit or Farm Custom Slaughter Tag shall include the following information:

(i) An affidavit with a statement that shall read "I hereby certify ownership of this animal to be slaughtered by ('insert name'). I fully understand that having my animal farm custom slaughtered means my animal will not receive meat inspection and is for my use, the use of my immediate family, non-paying guests, or full-time

NOTICES OF PROPOSED RULES

employees. The carcass will be stamped "NOT FOR SALE" and will not be sold." This statement shall be signed by the owner or designee;

(ii) In addition to this affidavit, the following information will be recorded:

- (A) date;
- (B) owner's name, address and telephone number;
- (C) animal description including brands and marks;
- (D) Farm Custom Slaughter Tag number;
- (E) location of slaughter;
- (F) name of licensee;
- (G) licensee permit number; and
- (H) carcass destination.

(b) Prior to slaughter the licensee shall prepare the Farm Custom Slaughter Tag with complete and accurate information.

(i) One tag shall stay in the license holder's file for at least one year.

(ii) One tag plus a copy of the Farm Custom Slaughter-Release Permit shall be sent into the department by the 10th of each month for the preceding month's slaughter by the licensee.

(iii) After slaughter, carcasses must be stamped "NOT FOR SALE" on each quarter with letters at least 3/8" in height; further, a Farm Custom Slaughter "NOT FOR SALE" tag shall be affixed to each quarter of beef and each half of pork and sheep.

(c) Hide Purchase. Licensee receiving hides for slaughtering services shall obtain a copy of the Custom Slaughter-Release Permit to record transfer of ownership, pursuant to Section 4-24-18.

**R58-11-8. Poultry Slaughter.**

(1) Personal Use Exemption.[

~~(a)~~ A person who raises poultry may slaughter or process the poultry if:

(i) slaughtering or processing poultry is not prohibited by local ordinance;

(ii) the poultry product derived from the slaughtered poultry is consumed exclusively by the person or the person's immediate family, regular employees of the person, or non-paying guests;

(iii) the slaughtering and processing of the poultry is performed only by the owner or an employee;

(iv) the poultry is healthy when slaughtered;

(v) the exempt poultry is not sold or donated for use as human food; and

(vi) the immediate container bears the statement, "NOT FOR SALE".

(2) Farm Custom Slaughter and Processing[

~~(a)~~ A person may slaughter or process poultry belonging to another person if:

(i) the person holds a valid farm custom slaughter license issued by the department;

(ii) slaughtering or processing poultry is not prohibited by local ordinance;

(iii) the licensee does not engage in the business of buying or selling poultry product capable for use as human food;

(iv) the poultry is healthy when slaughtered;

(v) the slaughtering or processing is conducted in accordance with sanitation standards that produce poultry product that is sound, clean, and fit for human food;

(vi) the unit or vehicle used for farm custom slaughtering shall be so constructed as to permit maintenance according to sanitation standards; and

(vii) the immediate container bears the following information:

- (A) the owner's name and address;
- (B) the licensee's name and address, and;
- (C) the statement, "NOT FOR SALE".

(3) Producer or Grower 1,000 Bird Limit Exemption

(a) A poultry grower may slaughter no more than 1,000 birds of their own raising in a calendar year for distribution as human food if:

(i) the poultry grower does not engage in buying or selling poultry product other than product produced from poultry raised on their own farm, including rented or leased property;

(ii) the slaughtering and or processing are conducted under the sanitation standards capable of producing poultry products that are sound, clean, fit for human food, and not adulterated;

(iii) the producer keeps slaughter records and records covering the sales of poultry product to customers for the current calendar year;~~and~~

(iv) the poultry products do not move in commerce~~[-]; and~~

(v) as required by the U.S. Public Health Service, Food and Drug Administration, Food Code 2013, adopted by the department in Section R70-530-3, the immediate container bears the following information:

(A) name of product; and

(B) name and place of business of the processor; and

(vi) the immediate container bears the statement "Exempt R58-11-8(3)."

(b) The department shall maintain a registry of persons who slaughter or process fewer than 1,000 poultry during the calendar year.

(4) Producer or Grower 20,000 Bird Limit Exemption.

(a) A poultry grower may slaughter no more than 20,000 healthy birds of ~~his or her~~their own raising in a calendar year for distribution as human food if:

(i) the poultry grower does not engage in buying or selling poultry product other than that produced from poultry raised on their own farm, including rented or leased property;

(ii) the slaughtering or processing is conducted in a fixed establishment and in accordance with sanitation standards that produce poultry product that is sound, clean, and fit for human food;

(iii) the producer keeps slaughter records and records covering the sales of poultry products to customers for the current calendar year~~[-];~~

(iv) the poultry product does not move in commerce, as the term is defined in 9 CFR 381.1; and

(v) the immediate container bear the following information:

(A) name of product;

(B) name and address of processor;

and~~[-]~~

(C) the statement "Exempt R58-11-8(4)."

(b) The department shall maintain a registry of persons who slaughter or process fewer than 20,000 poultry during the calendar year.

(5) Producer or Grower or Other Person Exemption

(a) The term "Producer or Grower or Other Person" in this section means a single entity, which may be:

(i) A poultry grower who slaughters and processes poultry that they raised for sale directly to household consumers, restaurants, hotels, and boarding houses to be used in those homes and dining rooms for the preparation of meals served or sold directly to customers.

(ii) A person who purchases live poultry from a grower and then slaughters these poultry and processes such poultry for sale directly to household consumers, restaurants, hotels, and boarding houses to be served in those homes or dining rooms for the preparation of meals sold directly to customers.

(b) A business may slaughter and process poultry under this exemption if:

(i) the person holds a valid poultry exemption license issued by the department;

(ii) slaughtering or processing poultry is not prohibited by local ordinance;

(iii) the producer or grower or other person slaughters for processing and sale directly to household consumers, restaurants, hotels, and boarding houses for use in dining rooms or in the preparation of meals sold directly to customers;

(iv) the producer or grower or other person slaughters no more than 20,000 birds in a calendar year that the producer or grower or other person raised or purchased;

(v) the producer or grower or other person does not engage in the business of buying or selling poultry or poultry products prepared under an other exemptions in the same calendar year they claim the Producer or Grower or Other Person Exemption;

(vi) the poultry products do not move in commerce. Distribution is directly to household consumers, restaurants, hotels, and boarding houses for use in their dining rooms or in the preparation of meals sold directly to consumers within the jurisdiction where it is prepared; ~~and~~

(vii) the slaughtering or processing is conducted in a fixed establishment and in accordance with sanitation standards that produce poultry products that are sound, clean, and fit for human food;

(viii) the producer keeps slaughter records and records covering the sales of poultry products to customers for the current calendar year~~;~~ and~~;~~

(ix) the immediate containers bear the following information:

(A) name of product;

(B) ingredients statement if applicable;

(C) net weights statement;

(D) name and address of processor;

(E) safe food handling statement;

(F) date of package or Lot number, and;

(G) the statement "Exempt R58-11-8(5)".

(c) A business preparing poultry product under the Producer or Grower or Other Person Exemption may not slaughter or process poultry owned by another person.

(d) A business preparing poultry products under the Producer or Grower or Other Person Exemption may not sell poultry products to a retail store or other producer or grower.

(6) Small Enterprise Exemption

(a) A business that qualifies for the Small Enterprise Exemption may be:

(i) a producer or grower who raises, slaughters, and dresses poultry for use as human food whose processing of dressed exempt poultry is limited to cutting up;

(ii) a business that purchases live poultry that it slaughters and whose processing of the slaughtered poultry is limited to the cutting up; or

(iii) a business that purchases dressed poultry, that it distributes as carcasses and whose processing is limited to the cutting up of inspected or exempted poultry products, for distribution for use as human food.

(b) a business may slaughter, dress, and cut up poultry for distribution as human food if:

(i) the person holds a valid poultry exemption license issued by the department;

(ii) slaughtering or processing poultry is not prohibited by local ordinance;

(iii) the processing of federal or state inspected or exempt poultry product is limited to the cutting up of carcasses or the business slaughters and dresses or cuts up no more than 20,000 birds in a calendar year;

(iv) the slaughtering and or processing is conducted in a fixed establishment and in accordance with sanitation standards that produce poultry product that is sound, clean, and fit for human food;

(v) the facility used to slaughter or process poultry is not used to slaughter or process another person's poultry; and

(vi) the immediate containers bear the following information:

(A) name of product;

(B) ingredients statement if applicable;

(C) net weights statement;

(D) name and address of processor;

(E) safe food handling statement;

(F) date of package or Lot number, and;

(G) the statement "Exempt R58-11-8(6)".

(c) A business may not cut up and distribute poultry product produced under the Small Enterprise Exemption to a business operating under the following exemptions:

(i) Producer or Grower or PGOP Exemption;

(ii) Retail Dealer; or

(iii) Retail Store.

#### **R58-11-9. Producer and Grower Sharing a Fixed Facility.**

(1) Each producer or grower shall comply with the laws and regulations governing establishments as set forth in Title 4, Chapter 32, Utah Meat and Poultry and Poultry Products Inspection and Licensing Act, this rule, the United States Department of Agriculture [~~USDA~~]-Poultry Exemptions, and federal regulations that apply.

(2) The poultry producer or grower shall hold a valid Custom Exempt Meat Establishment License (2202) issued by the department. The individual who holds the 2202 license shall be present when slaughter and processing operations are being performed.

(3) The department shall be notified five business days prior to slaughtering and processing. The individual shall provide the department with the following information pertaining to the slaughtering and processing of birds:

(a) the date;

(b) the time; and

(c) the location.

(4) The producer or grower shall:

(a) conduct a pre-operational inspection on any food-contact surfaces;

(b) document the findings of the pre-operational inspection and corrective actions pursuant to 9 CFR 416.12(a) and 416.15 prior to the commencement of operations;

(c) maintain records for at least one year and have them available for inspection by department officials;

(d) fully label product in accordance with this rule before leaving the facility;

(e) maintain the product temperature at 40 degrees F or less during transport; and

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(f) keep a written recall plan pursuant to 9 CFR 418 and have it available for inspection by department officials[?].

(5) Producers or growers shall not process on the same day as any other producer or grower.

**R58-11-10. Enforcement Procedures.**

(1) Livestock and Poultry Slaughtering License.

(a) It shall be unlawful for any person to slaughter or assist in slaughtering livestock and poultry as a business outside of a licensed slaughterhouse unless they hold a valid Farm Custom Slaughtering License issued by the department.

(b) Only persons who comply with Title 4, Chapter 32, Utah Meat and Poultry Products Inspection and Licensing Act and associated rules, and Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, shall be entitled to receive and retain a license.

(c) ~~A [L]~~ license may be renewed annually and shall expire on the 31st of December of each year.

(2) ~~[Suspension of license-]A~~ license may be suspended whenever:

(a) the department has reason to believe that an eminent public health hazard exists;

(b) insanitary conditions are such that carcasses would be rendered adulterated and or contaminated;

(c) the license holder has interfered with the department in the performance of its duties; or

(d) the licensee violates Title 4, Chapter 32, the Utah Meat and Poultry Products Inspection and Licensing Act or Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act or associated rules.

(3) The department may, pursuant to 9 CFR 500, suspend or terminate any exemption with respect to any person whenever the department finds that ~~[such]the~~ action will aid in effectuating the purposes of the Act. Failure to comply with the conditions of the exemption, including failure to process poultry and poultry product under sanitation standards, may result in termination of an exemption, in addition to other penalties consistent with 9 CFR 318.13.

(4) Warning letter. In instances when a violation may have occurred a warning letter may be sent to the licensee that specifies the violations and affords the holder a reasonable opportunity to correct them.

(5) Hearings. Whenever a licensee has been given notice by the department that suspected violations may have occurred or when a license is suspended, they may have an opportunity for a hearing to state their views before the department.

(6) Reinstatement of Suspended Permit. Any person whose license has been suspended may make application for ~~[the purpose of-]~~reinstatement of the license. The department may then re-evaluate the applicant and conditions. If the applicant has demonstrated to the department that they will comply with the rules, the license may be reinstated.

(7) Detainment or Embargo. Any meat found in a food establishment that does not have the proper identification or any uninspected meat slaughtered by a licensee that does not meet the requirements of these rules may be detained or embargoed.

(8) Condemnation. Meat that is determined to be unfit for human consumption may be denatured or destroyed.

**KEY: food inspections, slaughter, livestock, poultry**

**Date of Last Change: 2022[April 12, 2021]**

**Notice of Continuation: December 19, 2019**

**Authorizing, and Implemented or Interpreted Law: 4-32-109**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-301	Filing ID 54123

**Agency Information**

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

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

**General Information**

<b>2. Rule or section catchline:</b>
R277-301. Educator Licensing
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
This rule is being amended to bring licensing requirements into compliance with federal special education requirements for licensees working with students with disabilities.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
The amendments place limitations on Associate and local education agencies (LEA)-Specific licenses in special education license areas of concentration. The amendments also clarify the preparation requirements for license areas of concentration in special education related fields.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule change is not expected to have direct fiscal impact on state government revenues or expenditures. It does create additional requirements for an educator to get

an Associate License, in certain circumstances. These additional costs are normally paid for by applying educator candidates. If an LEA chooses to pay for these costs, to bolster recruitment of teachers, it would be discretionary, and therefore, not a direct fiscal impact.

**B) Local governments:**

This rule change is not expected to have direct fiscal impact on local governments' revenues or expenditures. It does create additional requirements for an educator to get an Associate License, in certain circumstances. These additional costs are normally paid for by applying educator candidates. If an LEA chooses to pay for these costs, to bolster recruitment of teachers, it would be discretionary, and therefore, not a direct fiscal impact.

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

This rule change is not expected to have direct fiscal impact on small businesses' revenues or expenditures. It does create additional requirements for an educator to get an Associate License, in certain circumstances. These additional costs are normally paid for by applying educator candidates. If an LEA chooses to pay for these costs, to bolster recruitment of teachers, it would be discretionary, and therefore, not a direct fiscal impact.

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

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

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

This rule change may have some fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. It creates additional requirements for an educator to get an Associate License, in certain circumstances. These additional costs are normally paid for by applying educator candidates.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

There may be some compliance costs for affected persons. This rule change creates additional requirements for an educator to get an Associate License, in certain circumstances. These additional costs are normally paid for by applying educator candidates.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. In addition, this rule change is not expected to have direct fiscal impact on small businesses. Sydnee Dickson, Superintendent

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

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

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	01/03/2022
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<b>10. This rule change MAY become effective on:</b>	01/10/2022
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	11/15/2021
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**R277. Education, Administration.**

**R277-301. Educator Licensing.**

**R277-301-1. Authority and Purpose.**

(1) This rule is authorized by:

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

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

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

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

**R277-301-2. Definitions.**

(1) "Accredited school" means a public or private school that:

(a) meets standards essential for the operation of a quality school program; and

(b) has received formal approval through a regional accrediting association.

(2) "Currently enrolled" means:

(a) that an individual has been formally accepted into a Board-approved educator preparation program; and

(b) that the program considers the individual to be an active participant.

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

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

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

(a) provide instruction in a specific content area; or

(b) apply a specific set of skills in an education setting.

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

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

(i) Early Childhood;

(ii) Elementary;

(iii) Secondary;

(iv) School Leadership

(v) Career and Technical Education or "CTE";

(vi) School Counselor;

(vii) School Psychologist;

(viii) Special Education;

(ix) Preschool Special Education;

(x) Deaf Education;

(xi) Speech-Language Pathologist;

(xii) Speech-Language Technician;

(xiii) School Social Worker; and

(xiv) Audiologist.

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

(9) "NASDTEC" means the National Association of State Directors of Teacher Education and Certification.

(10) "NASDTEC Stage 2 Educator License" means a license issued to an individual who holds a bachelor's degree and has completed an approved program but has not met the jurisdiction-specific requirement for a Stage 3 license of a member jurisdiction.

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

**R277-301-3. License Structure.**

(1) Utah educator licenses include the following licenses:

(a) Associate educator license;

(b) Professional educator license; and

(c) LEA-specific educator license.

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

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

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

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

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

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

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

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

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

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

#### **R277-301-4. Associate Educator License Requirements.**

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

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

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

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

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

(4) Notwithstanding Subsection (3), the Superintendent may not renew an associate license with a license area in special education or related services, if the educator has three years of experience with the associate license.

([4]5) The general requirements for an associate educator license shall include:

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

(b) completion of the educator ethics review within one calendar year prior to the application; and

(c) one of the following:

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

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

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

([5]6) The content knowledge requirements for an associate educator license shall include:

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

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

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

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

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

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

(iii) enrollment in a program that will result in a degree described in Subsection ~~([6]7)~~(b)(ii);

(c) for an early childhood license area, passage of a content knowledge test approved by the Superintendent; and

(d) for a a [all other] school leadership license area[s], enrollment in:

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

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

~~([6]7)~~ Notwithstanding, Subsection ~~([4]5)~~(c)(ii) ~~and Subsection (5)(d)~~,

(a) an applicant for an associate educator license with [a]the following license areas~~[-in]~~:

(i) special education ~~(K-12)~~;

(ii) pre-school special education;~~[-or]~~

(iii) deaf education;

~~(iv) audiologist;~~

~~(v) speech language technician; or~~

~~(vi) speech language pathologist;~~

(b) ~~[may also meet the general requirements and content knowledge]shall meet the following~~ requirements for an associate educator license~~[-]~~:

~~[-]~~ ~~(e) if the applicant has successfully:~~

(i) ~~[passed a]~~ demonstrate content knowledge ~~[test]~~competencies approved by the Superintendent; and

(ii) complete~~[d]~~ a special education law training approved by the Superintendent;~~[-and]~~

~~(iii) earn a bachelor's degree; and~~

~~([4]iv) [is-]enroll[ed]~~ in[er] a preparation program as provided in Subsection (9).

([A]8)(a) For a special education or pre-school special education license area, an applicant for an associate educator license shall enroll in a:

(i) Board-approved non-university based special education preparation program; or

([B]ii) a special education program at a regionally accredited institution that will yield a NASDTEC Stage 2 educator license.

(b) For a deaf education license area, an applicant shall enroll in a deaf education program at a regionally accredited institution that will yield a NASDTEC Stage 2 educator license.

(c) For a speech language pathologist license area, an applicant shall enroll in a speech language pathologist program at a regionally accredited institution of higher education that:

(i) results in a masters degree or higher in speech language pathology; and

(ii) will yield a NASDTEC Stage 2 educator license.

(d) For a school counselor license area, an applicant shall enroll in a school counselor program at a regionally accredited institution of higher education that:

(i) results in a masters degree or higher in school counseling; and

(ii) will yield a NASDTEC Stage 2 educator license.

(e) For a speech language technician license area, an applicant shall enroll in a speech language technician program that is:

(i) approved by the Board; or

(ii) administered by the Superintendent.

(f) For an audiologist license area, an applicant shall enroll in an audiology program at a regionally accredited institution of higher education that will yield a NASDTEC Stage 2 educator license.

(9) Notwithstanding Subsection (5)(c)(ii), an applicant for an associate educator license with a license area in school psychologist or school social worker shall meet the following requirements:

(a) demonstrate content knowledge competencies approved by the Superintendent;

(b) earn a Bachelor's degree; and

(c) complete all requirements for a regionally accredited master's level preparation program, except completion of capstone school-based clinical experience and any co-requisite coursework.

([7]10) Additional requirements for an associate educator license shall include:

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

(i) educator ethics;

(ii) classroom management and instruction;

(iii) basic special education law and instruction;

(iv) the Utah Effective Teaching Standards described in R277-530; or

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

(c) Notwithstanding Subsection (11)(a), the Superintendent may waive an individual module, if the module is not necessary given the preparation of an applicant.

([8]11) An educator that holds a professional license area of concentration and has met the competency criteria established by the Superintendent need not complete the requirements detailed in Subsection (6).

([9]12) A license applicant who has received or completed license preparation activities inconsistent with this rule may present compelling information and documentation for review and approval by the Superintendent to satisfy the associate educator license requirements.

([40]13) The Superintendent shall designate a panel of at least three Board staff members to review an appeal made under [s]Subsection ([9]12).

([44]14) An LEA that employs an individual that holds an associate educator license shall develop a personalized professional learning plan designed to support the educator in meeting the requirements for a professional educator license no later than 60 days after beginning work in the classroom, which shall:

(a) be provided to the Superintendent upon request;

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

(c) consider:

(i) previous education related experience; and

(ii) previous educational preparation activities.

([42]15) An educator with an associate educator license may upgrade to a professional educator license at any time prior to expiration of the associate educator license if the educator meets all requirements of Section R277-301-5.

**R277-301-5. Professional Educator License Requirements.**

(1) The Superintendent shall issue a professional educator license to an individual that applies for the license and meets all requirements in this Section R277-301-5.

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

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

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

(b) completion of:

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

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

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

(d) one of the following:

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

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

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

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

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

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

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

(6) The pedagogical requirements for professional educator license shall include:

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

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

(i) established by the Superintendent; and

(ii) approved by the Board.

(7) An individual holding a Utah level 1, level 2, or level 3 educator license on January 1, 2020 meets the pedagogical requirements described in Subsection (6).

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

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

(10) A license applicant who has received or completed license preparation activities inconsistent with this rule may present compelling information and documentation for review and approval

or denial by the Superintendent to satisfy the professional educator license requirements.

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

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

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

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

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

(4) The Superintendent shall accept demonstrations of content knowledge and pedagogical competencies from an applicant utilized by licensing jurisdictions outside of Utah that are reasonably equivalent to Utah competencies.

(5) An individual with one year of successful experience in a public or accredited private school under a standard license issued by another jurisdiction need not complete the content knowledge and pedagogical assessment requirements in the areas and subjects taught.

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

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

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

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

(i) educator preparation and support:

(A) as established by the LEA; and

(B) aligned with the Utah Effective Teaching Standards described in R277-530;

(ii) criteria for employing educators with an LEA-specific license; and

(iii) compliance with all requirements of this [R]rule[ R277-301];

(b) an LEA governing board applies on behalf of the candidate;

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

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

(i) educator ethics;

(ii) classroom management and instruction;

(iii) basic special education law and instruction; and

(iv) the Utah Effective Teaching Standards described in R277-530.

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

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

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

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

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

~~\_\_\_\_\_ (i) special education; or~~

~~\_\_\_\_\_ (ii) pre-school special education.~~

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

(6) An LEA may not issue an LEA-specific license area of concentration to an educator for the following license areas:

(a) special education;

(b) pre-school special education;

(c) deaf education;

(d) school psychologist;

(e) school social worker;

(f) audiologist;

(g) speech language therapist; or

(h) speech language pathologist.

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

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

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

(b) completion of the educator ethics review within one calendar year prior to the application; and

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

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

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

(a) disclosure of the fact that the school employs individuals holding LEA-specific educator licenses, license areas, or endorsements;

(b) an explanation of the types of licenses issued by the board;

(c) the percentage of the types of licenses, license areas, and endorsements held by educators employed in the school[-]based on the employees' FTE as reported to the Superintendent; and

(d) a link to the Utah Educator Look-up tool provided by the Superintendent in accordance with Subsection R277-~~[5]~~312-7(6).

**R277-301-8. Eminence.**

(1) The purpose of an eminence designation is to allow an individual with exceptional training or expertise, consistent with

NOTICES OF PROPOSED RULES

Section R277-301-2, to teach or work in the public schools on a limited basis.

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

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

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

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

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

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

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

(1) The Superintendent shall annually report to the Board on licensing, including:

- (a) educator licensing;
- (b) educator preparation; and
- (c) equitable distribution of teachers.

(2) The Superintendent shall use a process approved by the Board to:

- (a) establish the content knowledge competency requirements required for associate and professional endorsements; and
- (b) review, adopt, and establish passing standards for all assessments required for educator licensing.

(3) The Superintendent shall create an ethics review for all licensed educators based upon Rule R277-217, Educator Standards and Local Education Agency (LEA) Reporting.

(4) The Superintendent may correct identified errors in licensing information with notice to the license holder.

**KEY: professional competency, educator licensing**  
**Date of Last Change: 2022[June 24, 2021]**  
**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-6-102; 53E-3-401**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R277-307	Filing ID 54124

**Agency Information**

<b>1. Department:</b>	Education
<b>Agency:</b>	Administration
<b>Building:</b>	Board of Education
<b>Street address:</b>	250 E 500 S
<b>City, state and zip:</b>	Salt Lake City, UT 84111

<b>Mailing address:</b>	PO Box 144200	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	Angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R277-307. Teacher Leader
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
This is a new rule which replaces a previous version with a different number, Rule R277-513. This rule updates the requirements for becoming a teacher leader and the roles of a teacher leader. (EDITOR'S NOTE: Rule R277-513 expired on 11/08/2021. The notice is under ID 50477 in this issue, December 1, 2021, of the Bulletin.)
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
This new rule establishes requirements for becoming a teacher leader and updates criteria and roles for a teacher leader in schools as outlined in Sections R277-307-3 and R277-307-4.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This proposed rule is not expected to have significant fiscal impact on state government revenues or expenditures. This new rule is intended to replace Rule R277-513 and gives LEAs flexibility in choosing teacher leaders.
<b>B) Local governments:</b>
This proposed rule is not expected to have significant fiscal impact on local governments' revenues or expenditures. This new rule is intended to replace Rule R277-513 and gives LEAs flexibility in choosing teacher leaders.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
This proposed rule is not expected to have significant fiscal impact on small businesses' revenues or expenditures.

This new rule is intended to replace Rule R277-513 and gives LEAs flexibility in choosing teacher leaders.

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

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

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

This proposed rule is not expected to have significant fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. This new rule is intended to replace Rule R277-513 and gives LEAs flexibility in choosing teacher leaders.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no significant compliance costs for affected persons. This new rule is intended to replace Rule R277-513 and gives LEAs flexibility in choosing teacher leaders.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. In addition, this proposed rule is not expected to have direct fiscal impact on small businesses. Sydnee Dickson, Superintendent

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>B) Department head approval of regulatory impact analysis:</b>			
The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.			

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Article X, Section 3	Section 53E-6-902	Subsection 53E-3-401(4)
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	01/03/2022
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<b>10. This rule change MAY become effective on:</b>	01/10/2022
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	11/15/2021
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**R277. Education, Administration.**

**R277-307. Teacher Leader.**

**R277-307-1. Authority and Purpose.**

- (1) This rule is authorized by:
  - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
  - (b) Section 53E-6-902, which requires the Board to:
    - (i) define the role of a teacher leader; and
    - (ii) establish the minimum criteria for a teacher to qualify as a teacher leader; and
  - (c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.
- (2) The purpose of this rule is to:
  - (a) define the role of a teacher leader; and
  - (b) establish the minimum criteria for a teacher to qualify as a teacher leader.

**R277-307-2. Definitions.**

- (1) "Teacher" has the same meaning as defined in Subsection 53E-6-902(1).
- (2) "Teacher leader" has the same meaning as defined in Subsection 53E-6-902(2).

**R277-307-3. Minimum Criteria for a Teacher Leader.**

- An LEA may designate a teacher as a teacher leader if the teacher:
- (1) has a professional educator license;
  - (2)(a) has an educator evaluation effectiveness rating of effective or highly effective for at least the two years prior to being designated as a teacher leader; or
  - (b) has a successful or equivalent evaluation rating using a local board-approved evaluation system for at least the two years prior to being designated as a teacher leader;
  - (3) demonstrates competence in working with adult learners and peers;
  - (4) demonstrates:
    - (a) consistent leadership;
    - (b) focused collaboration;
    - (c) distinguished teaching; and
    - (d) a commitment to ongoing professional growth; and

(5) is recommended by the building administrator to be designated as a teacher leader.

**R277-307-4. Roles of a Teacher Leader.**

- (1) A teacher leader may exhibit leadership in a school through formally or informally designated responsibilities.
- (2) A teacher leader shall maintain the teacher leader's assignment as a classroom teacher while exercising appropriate leadership responsibilities, consistent with this section.
- (3) A teacher leader may perform the following functions:
  - (a) Professional learning lead, including:
    - (i) generally supporting school-based professional learning; or
    - (ii) serving as a learning designed or facilitator for professional learning activities;
  - (b) Formally trained and recognized mentor, including:
    - (i) modeling effective instructional strategies for other teachers;
    - (ii) training, supervising, and mentoring:
      - (A) student teachers;
      - (B) new teachers; or
      - (C) teachers that supervise student teachers; or
    - (iii) coaching the development of effective instruction;
  - (c) Lead or master teacher, including:
    - (i) guiding other educators in collecting, understanding, analyzing, and interpreting student-achievement data and using those findings to improve instruction;
    - (ii) leading efforts to modify or improve curriculum; or
    - (iii) facilitating and coordinating professional learning communities;
  - (d) Education policy advocate, including:
    - (i) positively contributing to informed decisions made by policy makers; or
    - (ii) sharing information with colleagues regarding impact of policy on classroom practices;
  - (e) School outreach lead, including:
    - (i) leading specific school improvement initiatives; or
    - (ii) acting as a liaison for community projects; or
  - (f) Education ambassador, including:
    - (i) networking within and beyond local, state, and national education organizations; or
    - (ii) serving on task forces, committees, and advisory boards.
- (4) An LEA may provide additional incentives to teacher leaders for fulfilling the responsibilities outlined in this section, including:
  - (a) a pay increase, bonus, or other financial incentive; or
  - (b) a reduction in the teacher leader's regular classroom workload.

**KEY: teacher, leader, qualification**

**Date of Last Change: 2022**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-6-902; 53E-3-401(4)**

<b>NOTICE OF PROPOSED RULE</b>		
<b>TYPE OF RULE:</b> Amendment		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R277-424</b>	<b>Filing ID 54125</b>

**Agency Information**

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

**General Information**

<b>2. Rule or section catchline:</b>
R277-424. Indirect Costs for State Programs
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
This rule is being amended due to requests from Regional Education Service Agency (RESA) Directors and Board members to give RESAs the authority to charge indirect costs to state funded programs.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
Rule R277-424 is being amended to allow a RESA to charge indirect costs against state programs.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule change is not expected to have significant fiscal impact on state government revenues or expenditures. It allows a RESA to charge indirect costs. This may cause some increased activities within the agency that can be absorbed within current budgets and procedures.
<b>B) Local governments:</b>
This rule change is not expected to have direct fiscal impact on local governments' revenues or expenditures. It allows a RESA to charge indirect costs. If a RESA chooses to charge indirect costs, this will have an impact on grant funding amounts received by LEAs that partner

with the RESA. However, these impacts would be up to local discretion and, therefore, would not be a direct fiscal impact.

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

This rule change is not expected to have direct fiscal impact on small businesses' revenues or expenditures. It allows a RESA to charge indirect costs. If a RESA chooses to charge indirect costs, this will have an impact on grant funding amounts received by LEAs that partner with the RESA. However, these impacts would be up to local discretion and, therefore, would not be a direct fiscal impact.

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

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

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

This rule change is not expected to have direct fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. It allows a RESA to charge indirect costs. If a RESA chooses to charge indirect costs, this will have an impact on grant funding amounts received by LEAs that partner with the RESA. However, these impacts would be up to local discretion and, therefore, would not be a direct fiscal impact.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no direct compliance costs for affected persons. This rule change allows a RESA to charge indirect costs. If a RESA chooses to charge indirect costs, this will have an impact on grant funding amounts received by LEAs that partner with the RESA. However, these impacts would be up to local discretion and, therefore, would not be a direct fiscal impact.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. In addition, this rule change is not expected to have direct fiscal impact on small businesses. Sydnee Dickson, Superintendent

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

Regulatory Impact Table			
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Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Article X, Section 3	Subsection 53E-3-501(1)(e)	Subsection 53E-3-401(4)
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	01/03/2022
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<b>10. This rule change MAY become effective on:</b>	01/10/2022
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	11/15/2021
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**R277. Education, Administration.**

**R277-424. Indirect Costs for State Programs.**

**R277-424-1. Authority and Purpose.**

(1) This rule is authorized by:  
 (a) Article X, Section 3 of the Utah Constitution, which vests general control and supervision over public education in the Board;

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

(c) Subsection 53E-3-501(1)(e), which directs the Board to adopt rules for financial, statistical, and student accounting requirements.

(2) The purpose of this rule is to establish Board standards for claiming indirect costs for state programs.

**R277-424-2. Definitions.**

(1) "Direct costs" mean costs that can be easily, obviously, and conveniently identified by the Superintendent with a specific program.

(2) "Indirect costs" mean the costs of providing indirect services.

(3) "Indirect Services" mean services that cannot be identified with a specific program.

(4) "Regional education service agency" or "RESA" the same as that term is defined in Section 53G-4-410.

~~(4)~~(5) "Restricted indirect cost rate" means;

(a) for an LEA, a rate assigned to each LEA annually based on the ratio of restricted indirect costs to direct costs as reported in the annual financial report for the specific LEA; and

(b) for a RESA, a rate determined by the RESA, up to the de-minimis rate when allowable.

~~[(5)](6)~~ "Unallowable costs" mean expenditures directly attributable to governance, including:

(a) salaries;

(b) expenditures of the office of the district superintendent, the governing board, and election expenses; and

(c) expenditures for fringe benefits, which are associated with unallowable salary expenditures.

~~[(6)](7)~~ "Unrestricted indirect cost rate" means:

(a) for an LEA, a rate assigned to each LEA annually, based on the ratio of unrestricted indirect costs to direct costs as reported in the annual financial report for the specific LEA; and

(b) for a RESA, a rate determined by the RESA, up to the de-minimis rate when allowable.

**R277-424-3. Standards.**

(1)(a) An LEA or RESA may charge indirect costs to state funded programs unless prohibited by Utah Code or Board Rule.

(b) An LEA or RESA may charge indirect costs to federally funded programs in accordance with 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

(2) The Superintendent may not authorize or pay indirect costs to higher education institutions for state funded contractual work.

(3)(a) Prior to the beginning of each fiscal year, the Superintendent shall publish a schedule of the indirect cost rates for state programs.

(b) The Superintendent shall develop the schedule of information contained in the annual financial reports and specifically identified items submitted by LEAs.

(c) Each program schedule shall include:

(i) whether or not the restricted or unrestricted indirect cost rate applies; and

(ii) whether or not indirect costs are allowable or applicable.

(4)(a) An LEA or RESA may recover indirect costs if funds are available.

(b) If a combination of direct and indirect costs exceeds funds available, then the LEA may not recover the total cost of the project or program.

(c) Recovery of indirect costs is not optional for state programs.

(d) If an LEA or RESA elects to recover indirect costs, the LEA or RESA shall use the annual rates negotiated by the Superintendent for ~~all~~ applicable federal and state programs.

(5)(a) An LEA or RESA may only recover indirect costs for state programs to the extent that direct costs were incurred.

(b) The Superintendent shall apply the indirect cost rate to the amount expended, not to the total grant, ~~[in order]~~ to determine the amount for indirect costs.

**KEY: education finance**

**Date of Last Change:** ~~2022~~ ~~November 7, 2017~~

**Notice of Continuation:** September 13, 2017

**Authorizing, and Implemented or Interpreted Law:** Art X Sec 3; 53E-3-501(1)(e); 53E-3-401(4)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-477	Filing ID 54126

**Agency Information**

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

**General Information**

<b>2. Rule or section catchline:</b>
R277-477. Distributions of Funds from the Trust Distribution Account and Administration of the School LAND Trust Program
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
This rule is being amended to update the requirements for providing charter TRUST land council contact information on school websites and to update outdated code reference.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
The amendments update requirements for publicizing contact information on charter TRUST land councils as outlined in Subsection R277-477-3(5)(c)(vi). The amendments also update a code reference in citation block at the bottom of the text from Section 53A-1-401 to Section 53E-3-401.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
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<p><b>A) State budget:</b></p> <p>This rule change is not expected to have significant fiscal impact on state government revenues or expenditures. It gives more discretion to LEAs on how to meet requirements in rule while still providing a means for interested persons to contact their community council representatives.</p>
<p><b>B) Local governments:</b></p> <p>This rule change is not expected to have significant fiscal impact on local governments' revenues or expenditures. It gives more discretion to LEAs on how to meet requirements in rule while still providing a means for interested persons to contact their community council representatives.</p>
<p><b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):</p> <p>This rule change is not expected to have significant fiscal impact on small businesses' revenues or expenditures. It gives more discretion to LEAs on how to meet requirements in rule while still providing a means for interested persons to contact their community council representatives.</p>
<p><b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):</p> <p>There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.</p>
<p><b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b>):</p> <p>This rule change is not expected to have significant fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. It gives more discretion to LEAs on how to meet requirements in rule while still providing a means for interested persons to contact their community council representatives.</p>
<p><b>F) Compliance costs for affected persons</b> (How much will it cost an impacted entity to adhere to this rule or its changes?):</p>

There are no significant compliance costs for affected persons. This rule change gives more discretion to LEAs on how to meet requirements in rule while still providing a means for interested persons to contact their community council representatives.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. In addition, this rule change is not expected to have direct fiscal impact on small businesses. Sydnee Dickson, Superintendent

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Article X, Section 3	Section 53G-7-1206	Section 53F-2-404
Subsection 53E-3-401(4)	Rule R277-491	Subsection 53F-2-404(2)(d)

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	01/03/2022
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**10. This rule change MAY become effective on:** 01/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	11/15/2021
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**R277. Education, Administration.**

**R277-477. Distributions of Funds from the Trust Distribution Account and Administration of the School LAND Trust Program.**

**R277-477-1. 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 53F-2-404(2)(d), which allows the Board to adopt rules regarding the time and manner in which a student count shall be made for allocation of funds; and
  - (c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.
- (2) In accordance with Section 53D-2-202, through representation on the Land Trusts Protection and Advocacy Committee, the Board exercises trust oversight of:
  - (a) the Common School Trust;
  - (b) the School for the Deaf Trust; and

- (c) the School for the Blind Trust.
- (3) The Board implements the School LAND Trust program and provides oversight, support, and training for school community councils and Charter Trust Land Councils consistent with Section 53G-7-1206, Rule R277-491, and this Rule R277-477.
- (4) The purpose of this rule is to:
  - (a) provide financial resources to a public school to implement a component of a school's Teacher and Student Success Plan ~~in order~~ to enhance and improve student academic achievement;
  - (b) provide a means to involve a parent of a school's student in decision-making regarding the expenditure of School LAND Trust program funds allocated to the school;
  - (c) provide direction in the distribution of funds from the Trust Distribution Account, as funded in Section 53F-2-404;
  - (d) provide for appropriate and adequate oversight of the expenditure and use of funds by an approving entity, school administration, and the Board;
  - (e) provide for proper allocation of funds as stated in Section 53F-2-404, and the appropriate and timely distribution of the funds;
  - (f) enforce compliance with statutory and rule requirements, including the responsibility for a school community council to notify school community members regarding the use of funds; and
  - (g) define the roles, duties, and responsibilities of the Superintendent with regards to the School Children's Trust.

**R277-477-2. Definitions.**

- (1) "Approving entity" means a school district board or a charter authorizer consistent with Section 53G-7-1206.
- (2)(a) "Charter trust land council" means a council comprised of a two person majority of parents or grandparents of students attending the charter school, elected by parents of students attending the charter school, convened to act in lieu of the school community council for the charter school.
- (b) "Charter trust land council" includes a charter school governing board if:
  - (i) the charter governing board meets the two-parent majority requirement; and
  - (ii) the charter school governing board chooses to serve as the charter trust land council.
- (3) "Council" means a school community council or a charter trust land council.
- (4) "Digital citizenship" means the same as that term is defined in Section 53G-7-1202.
- (5) "Fall enrollment report" means the audited census of students registered in Utah public schools as reported in the audited October 1 Fall Enrollment Report of the previous year.
- (6) "Funds" means School LAND Trust program funding as defined in Section 53F-2-404.
- (7) "Most critical academic need" means an academic need, consistent with the core standards in Rule R277-700, identified by a council through the annual review of schoolwide assessment data and other relevant indicators.
- (8) "Parent," for a charter school, includes a grandparent of a student currently enrolled at the school.
- (9)(a) "Principal" means an administrator licensed as a principal in the state and employed in that capacity at a school.
- (b) "Principal" includes the director of a charter school.
- (10) "Sample" means:
  - (a) one-third of schools within a district;

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- (b) at least ten schools; and
- (c) all schools if there are less than ten schools in a district.
- (11) "Satellite charter school" has the same meaning as that term is defined in Section R277-550-2.
- (12) "School safety principles" has the same meaning as described in Section 53G-7-1202.
- (13) "Student" means a child in public school grades kindergarten through 12 counted on the fall enrollment report of an LEA.
- (14) "Teacher and Student Success Plan" or "TSSP" means the plan required of each school under Section 53G-7-1305.
- (15) "Trust Distribution Account" means the restricted account within the Uniform School Fund created under Subsection 53F-9-201(2).
- (16) "UPEFS" means the Utah Public Education Finance System.
- (17) "Website" means the School LAND Trust website.

**R277-477-3. Distribution of Funds - Local Board or Local Charter Board Approval of School LAND Trust Plans.**

- (1) A public school receiving School LAND Trust program funds shall have:
  - (a) a school community council as required by Section 53G-7-1202 and Rule R277-491;
  - (b) a charter school trust land council as required by Section 53G-7-1205; or
  - (c) an approved exemption under this rule.
- (2) Notwithstanding Subsection (1)(a), the USDB Advisory Council may fill the responsibilities of a school community council for USDB.
- (3) A public school receiving School LAND Trust program funds shall submit a membership form consistent with the required membership in Subsection (1) that includes a principal assurance consistent with Subsection 53G-7-1206(3)(c) by October 1 annually.
- (4) A charter school that elects to receive School LAND Trust funds shall:
  - (a) have a charter trust land council consistent with Section 53G-7-1205; and
  - (b) receive training about Section 53G-7-1206.
- (5) A charter trust land council that is not a charter governing board shall:
  - (a) be subject to Section 53G-7-1203;
  - (b) have parent or grandparent members elected by parents of students attending the charter school; and
  - (c) post the following items on the school's website by October 1 annually:
    - (i) an invitation to parents to serve on the Charter Trust Land Council;
    - (ii) the dollar amount the school receives each year from the School LAND Trust program;
    - (iii) a copy or link to the current Teacher and Student Success Plan;
    - (iv) approved minutes of Charter Trust Land Council meetings for at least a year;
    - (v) the proposed council meeting scheduled for the school year;
    - (vi) ~~[a telephone number, email address, or both where each council member can be contacted directly]~~ a means to contact the members of the school's Charter Trust Land Council directly;
    - (vii) a link or copy of the final reports of the school for the last two years, as required by Subsection 53G-7-1206(5);
    - (viii) a link or copy of the school plan for the current year.

- (6) A charter school that is a small or special school may receive an exemption from the charter land trust council composition requirements contained in Section 53G-7-1205 upon application to the school's authorizer if the small or special school demonstrates and documents a good faith effort to recruit members to the charter trust land council.
- (7) The principal of a charter school that elects to receive School LAND Trust funds shall submit a plan, approved by the school's governing board, to the approving entity on the School LAND Trust website:
  - (a) no later than April 1 for schools authorized by the State Charter School Board; or
  - (b) for a newly opening charter school, no later than November 1 in the school's first year ~~[in order]~~ to receive funding in the year the newly opening charter school opens.
- (8)(a) An approving entity:
  - (i) shall consider a plan annually; and
  - (ii) may approve or disapprove a school plan.
- (b) If an approving entity does not approve a plan, the approving entity shall:
  - (i) provide a written explanation why the approving entity did not approve the plan; and
  - (ii) request that the school revise the plan, consistent with Subsection 53G-7-1206(4)(d).
- (9)(a) To receive funds, the principal of a public school shall submit a School LAND Trust plan to the approving entity annually through the School LAND Trust website using the form provided.
  - (b) The Board may grant an exemption to a school using the Superintendent-provided form, described in Subsection (8)(a), on a case-by-case basis.
- (10) In addition to the requirements of Subsection (7), the School LAND Trust plan described in Subsections (6) and (8)(a) shall include the date the council voted to approve the plan.
  - (11)(a) The principal of a school shall ensure that a council member has an opportunity to provide a signature indicating the member's involvement in implementing the current School LAND Trust plan and developing the school plan for the upcoming year.
    - (b) The principal shall collect a council member's signature digitally through the website.
    - (c) An approving entity may design the approving entity's own form to collect the information required by this Subsection (10).
  - (12)(a) An approving entity for a district school or a charter school authorized by an authorizer other than the State Charter School Board shall establish a timeline, including a deadline, for a school to submit a school's School LAND Trust plan.
    - (b) A timeline described in Subsection (10)(a) shall:
      - (i) require a school's School LAND Trust plan to be submitted to the approving entity with sufficient time so that the approving entity may approve the school's School LAND Trust plan no later than May 15 of each year; and
      - (ii) allow sufficient time for a council to reconsider and amend the council's School LAND Trust plan if the approving entity rejects the school's plan and still allow the school to meet the May 15 approving entity's approval deadline.
    - (c) After an approving entity has completed the approving entity's review, the approving entity shall notify the Superintendent that the review is complete.
    - (d) For an LEA to receive its full distribution in July, the LEA shall submit plans with all required approvals online no later than May 15.

(13)(a) Prior to approving a plan, an approving entity shall review a School LAND Trust plan under the approving entity's purview to confirm that a School LAND Trust plan contains:

- (i) academic goals;
- (ii) specific steps to meet the academic goals described in Subsection (11)(a)(i);
- (iii) measurements to assess improvement; and
- (iv) specific expenditures focused on student academic improvement needed to implement plan goals.

(b) The approving entity shall determine whether a School LAND Trust plan is evidence based and consistent with the approving entity's pedagogy, programs, and curriculum.

(c) The president or chair of the approving entity shall provide training annually on the requirements of Section 53G-7-1206 to the members of the approving entity.

(14)(a) After receiving the notice described in Subsection (10)(c), the Superintendent shall review each School LAND Trust plan for compliance with the law governing School LAND Trust plans.

(b) The Superintendent shall report back to the approving entity concerning which School LAND Trust plans were found to be out of compliance with the law.

(c) An approving entity shall ensure that a School LAND Trust plan that is found to be out of compliance with the law by the Superintendent is amended or revised by the council to bring the school's School LAND Trust plan into compliance with the law.

(15) If an approving entity fails to comply with Subsection (12)(c), Superintendent may report the failure to the Audit Committee of the Board as described in Section R277-477-8.

#### **R277-477-4. Appropriate Use of School LAND Trust Program Funds.**

(1) Parents, teachers, and the principal, in collaboration with an approving entity, shall review school[-]wide assessment data annually and use School LAND Trust program funds in data-driven and evidence-based ways to improve educational outcomes, consistent with the academic goals of the school's teacher and student success plan framework under Section 53G-7-1304 and the priorities of the LEA governing board, including:

- (a) strategies that are measurable and show academic outcomes with multi-tiered systems of support; and
- (b) counselors and educators working with students and families on academic and behavioral issues when a direct impact on academic achievement can be measured.

(2) A school's School LAND Trust program expenditures shall have a direct impact on the instruction of students in the particular school's areas of most critical academic need and consistent with the academic priorities of the LEA's governing board:

(a) to increase achievement in:

- (i) English;
- (ii) language arts;
- (iii) mathematics; and
- (iv) science; and

(b) for high schools to:

- (i) increase graduation rates; and
- (ii) promote college and career readiness.

(3) A school may not use School LAND Trust program funds for the following:

- (a) costs related to district or school administration, including accreditation;
- (b) expenses for:
  - (i) construction;

- (ii) maintenance;

- (iii) facilities;

- (iv) overhead;

- (v) furniture;

- (vi) security; or

- (vii) athletics; or

(c) expenses for non-academic in-school, co-curricular, or extracurricular activities.

(4) A school that demonstrates appropriate progress and achievement consistent with the academic priorities of the LEA governing board outlined in Subsection (2) may request local board approval of a plan to address other academic goals if the plan includes:

(a) how the goal is in accordance with the core standards established in Rule R277-700;

(b) how the action plan for the goal is:

- (i) data[-]-driven;

- (ii) evidence based; and

(iii) has a direct impact on the instruction of students consistent with Subsections (1) and (2);

(c) the data driving the decision to spend School LAND Trust funds for academic needs outlined in this Subsection (4); and

(d) the anticipated data source the school will use to measure progress.

(5) A council may budget and spend no more than \$7,000 for an academic goal or component of an academic goal than incorporates any combination of the following:

(a) digital citizenship training under Subsection 53G-7-1202(3)(a)(iii); or

(b) safety principles consistent with Subsection 53G-7-1202(3)(a)(v).

(6) A school district or local school board may not require a council or school to spend the school's School LAND Trust program funds on a specific use or set of uses.

(7) Student incentives implemented as part of an academic goal in the School LAND Trust program may not exceed \$2 per student in an academic school year.

#### **R277-477-5. Distribution of Funds - Determination of Proportionate Share.**

(1) An LEA shall report the prior year expenditure of distributions for each school.

(2) The total expenditures each year described in Subsection (1) may not be greater than the total available funds for an LEA.

(3)(a) In an unanticipated circumstance, a school within an LEA may be allowed a small advance from a school's allocation for the next fiscal year when:

(i) the LEA has unspent School LAND Trust funds to cover the advance; and

(ii) the LEA governing board approves the advance.

(b) If a school receives an advance under Subsection

(3)(a):

(i) the LEA shall decrease the beginning allocation to the school for the next fiscal year in the same amount as the advance; and

(ii) restore the same advance amount to the unspent School LAND Trust funds of the LEA.

(c) A school's beginning School LAND Trust funds balance for a new school year shall be:

(i) the school's allocation for the new school year;

(ii) minus any advance approved under Subsection (3)(a);

(iii) plus any carry-over from the prior year.

NOTICES OF PROPOSED RULES

(4) A school district shall adjust the current year distribution of funds received from the School LAND Trust program as described in Section 53F-2-404, as necessary to maintain an equal per student distribution within a school district based on:

- (a) school openings and closings;
- (b) boundary changes; and
- (c) other enrollment changes occurring after the fall enrollment report.

(5) An LEA shall provide the current year distribution and carry-over amount from the prior school year to the principal by October 1 annually.

(6) A charter school and each of the charter school's satellite charter schools are a single LEA for purposes of public school funding.

(7)(a) For purposes of this [S]section[~~(S)~~], "qualifying charter school" means a charter school that:

(i) would receive more funds from a per pupil distribution than the charter school receives from the base payment described in Subsection (6)(c); and

(ii) is not a newly opening charter school as described in Subsection (7).

(b) The Superintendent shall distribute the funds allocated to charter schools as described in this Subsection (6).

(c) The Superintendent shall first distribute a base payment to each charter school that is equal to the product of:

(i) an amount equal to the total funds available for all charter schools; and

(ii) at least 0.4%.

(d) After the Superintendent distributes the amount described in Subsection (6)(c), the Superintendent shall distribute the remaining funds to qualifying charter schools on a per pupil basis.

(8)(a) The Superintendent shall distribute an amount of funds to a newly opening charter school that is equal to the greater of:

(i) the base payment described in Subsection (6)(c); or

(ii) a per pupil amount based on the newly opened charter school's projected October 1 enrollment count.

(b) The Superintendent shall increase or decrease a newly opening charter school's first year distribution of funds in the school's second year to reflect the newly opening charter school's actual first year October 1 enrollment.

(9) If a school chooses not to apply for funds or does not meet the requirements for receiving funds, the Superintendent shall deposit the unused balance in the Trust Distribution Account.

**R277-477-6. School LAND Trust Program - Implementation of Plans and Required Reporting.**

(1) A school shall implement a plan as approved.

(2)(a) The principal shall submit a plan amendment authorized by Subsection 53G-7-1206(4)(d)(iii) through the School LAND Trust website for approval, including the date the council approved the amendment and the number of votes for, against, and absent.

(b) The approving entity shall:

(i) consider the amendment for approval;

(ii) approve an amendment before the school uses funds according to the amendment; and

(iii) notify the Superintendent an amendment is ready for review.

(c) The Superintendent shall review an amendment for compliance with statute and rule before the school uses funds according to the amendment.

(3)(a) A school shall provide an explanation for any carry-over that exceeds one-tenth of the school's allocation in a given year in the School LAND Trust Plan or final report.

(b) The Superintendent shall recommend a district or school with a consistently large carry-over balance over multiple years for corrective action for not making adequate and appropriate progress on an approved plan.

(c) The Superintendent may take corrective action to remedy excessive carry-over balances consistent with Rule R277-114.

(4) By approving a plan on the School LAND Trust website, the approving entity affirms that:

(a) the entity has reviewed the plan; and

(b) the plan meets the requirements of statute and rule.

(5)(a) A district or charter school business official shall enter prior year audited expenditures of School LAND Trust funds through UPEFS consistent with UPEFS requirements and timelines.

(b) The expenditure data shall appear in the final report submitted online by a principal, as required by Subsection 53G-7-1206(5)(b).

(6) A principal shall submit a final report on the School LAND Trust website annually before a School LAND Trust plan for the coming school year is submitted.

(7) An approving entity shall ensure that a final report includes clear explanations of plan implementation and expenditures and meets the confidentiality requirements of Rule R277-487 prior to March 1 to allow the review required by Section R277-477-7.

(8) An LEA shall provide an annual report to its governing board on the implementation of each school's prior year School LAND Trust plans by March 1 annually.

**R277-477-7. Compliance Review.**

(1)(a) The Superintendent shall review a sample of school final reports for consistency with the approved school plan.

(b) The Superintendent shall create a list of all schools in the sample whose final reports indicate that funds from the School LAND Trust program were expended inconsistent with the statute, rule, or the school's approved plan.

(c) The Superintendent shall annually report a school described in Subsection (1)(b) to the school district contact person, district superintendent, and president of the local board of education or charter board and charter approving entity, as applicable.

(2) The Superintendent may visit a school receiving funds from the School LAND Trust program to discuss the program, receive information and suggestions, provide training, and answer questions.

(3)(a) The Superintendent shall supervise annual compliance reviews to review expenditure of funds consistent with the approved plan, allowable expenses, and the law.

(b) The Superintendent shall report annually to the Board Audit Committee on compliance review findings and other compliance issues.

**R277-477-8. Superintendent Responsibilities.**

The Superintendent shall:

(1) represent the Board on the Land Trusts Protection and Advocacy Committee in accordance with Section 53D-2-202;

(2) review and approve a charter school plan on behalf of the State Charter School Board;

(3) provide notice as necessary to the State Charter School Board of changes required of charter schools for compliance with statute and rule;

- (4) review and approve a plan submitted by the USDB Advisory Council as necessary;
- (5) prepare the annual distribution of funds to implement the School LAND Trust program pursuant to Section 53F-2-404;
- (6) provide training to entities involved with the School LAND Trust program consistent with Subsection 53G-7-1206(8); and
- (7) implement corrective action, if appropriate, consistent with Rule R277-114 if an LEA or its council fails to comply with [the provisions of] this rule.

**KEY: schools, trust lands funds, school community councils**  
**Date of Last Change: 2022[July 20, 2021]**  
**Notice of Continuation: July 28, 2021**  
**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; [53A-1-401][53E-3-401]; 53F-2-404**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-484	Filing ID 54127

**Agency Information**

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

**General Information**

<b>2. Rule or section catchline:</b>
R277-484. Data Standards
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
This rule is being amended to update data reporting deadlines and clarify Utah eTranscript and Record Exchange (UTREx) submission requirements.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>

The amendments move the data reporting deadlines table to a document incorporated into this rule by reference, add new deadlines for school fees compliance, update deadlines, and clarify UTREx submission requirements.

**Fiscal Information**

**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

**A) State budget:**

This rule change is not expected to have significant fiscal impact on state government revenues or expenditures. It contains technical changes to UTREx submission requirements and adds deadlines for school fees reporting that already exist elsewhere in rule.

**B) Local governments:**

This rule change is not expected to have significant fiscal impact on local governments' revenues or expenditures. It contains technical changes to UTREx submission requirements and adds deadlines for school fees reporting that already exist elsewhere in rule.

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

This rule change is not expected to have significant fiscal impact on small business revenues or expenditures. It contains technical changes to UTREx submission requirements and adds deadlines for school fees reporting that already exist elsewhere in rule.

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

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

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

This rule change is not expected to have significant fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. It contains technical changes to UTREx submission requirements and adds deadlines for school fees reporting that already exist elsewhere in rule.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no significant compliance costs for affected persons. The rule changes to UTREx submission requirements are technical in nature and the amendments add deadlines for school fees reporting that already exist elsewhere in rule.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. In addition, this rule change is not expected to have direct fiscal impact on small businesses. Sydnee Dickson, Superintendent

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>Net Benefits</b>	<b>Fiscal</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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**B) Department head approval of regulatory impact analysis:**

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Article X, Section 3	Subsection 53E-3-511(8)	Subsection 53E-3-401(8)(a)
Subsection 53E-3-401(4)		

**Incorporations by Reference Information**

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

	<b>First Incorporation</b>
<b>Official Title of Materials Incorporated (from title page)</b>	USBE Reporting Deadlines
<b>Publisher</b>	Utah State Board of Education
<b>Date Issued</b>	11/04/2021
<b>Issue, or version</b>	1

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	01/03/2022
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**10. This rule change MAY become effective on:**

01/10/2022  
 NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	11/15/2021
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**R277. Education, Administration.****R277-484. Data Standards.****R277-484-1. Authority and Purpose.**

(1) This rule is authorized by:

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

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

(c) Subsection 53E-3-401(8)(a), which allows the Board to take corrective action against an education entity that fails to comply with Board rules; and

(d) Subsection 53E-3-511(8), which requires the Board to ensure LEA inclusion of data in an LEA's Student Information System.

(2) The Superintendent is required to perform certain data collection related duties essential to the operation of statewide educational accountability and financial systems as mandated in state and federal law.

(3) The purpose of this rule is to:

(a) support the operation of required educational accountability and financial systems by ensuring timely submission of data by LEAs[-];

(b) support the provision of equal opportunity for students;

(c) support accuracy, efficiency, and consistency of data; and

(d) ensure maintenance of basic contact and demographic information for each LEA and school.

**R277-484-2. Definitions.**

As used in this rule and the Board Reporting Deadline Table incorporated by reference in this rule:

(1) "Annual Financial Report" means an account of LEA revenue and expenditures by source and fund sufficient to meet the reporting requirements specified in Subsections 53E-3-301(3)(d) and (e).

(2) "Annual Program Report" means an account of LEA revenue and expenditures by source and program sufficient to meet the reporting requirements specified in Subsections 53E-3-301(3)(d) and (e).

(3) "Comprehensive Administration of Credentials for Teachers in Utah Schools" or "CACTUS" means the ~~[same as that term is defined in Subsection R277-512(1)(a)]~~ online licensing database maintained by the Superintendent, which will be phased out and replaced by EdUcate.

(4) "Contact information" means the name, title, email address, and phone number for a designated individual.

([4]5) "Data Warehouse" means the database of demographic information, course taking, and test results maintained by the USOE on all students enrolled in Utah schools.

(6) "Designated individual" means:

(a) an LEA governing board chair;

(b) a local administrator;

(c) a business administrator; or

(d) a school principal.

([5]2) "EDEN" means the Education Data Exchange Network, the mechanism by which state education agencies are mandated to submit data to the U.S. Department of Education.

(8) "EdUcate" has the same meaning as described in Subsection R277-312-2(1).

(9) "Fee waiver status" means the designation, maintained in the Data Warehouse, that a student has been approved or denied for a fee waiver in accordance with Rule R277-407.

(10) "Governing board chair" means the chair or president of an LEA governing board.

([6]11) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(12) "LEA demographic information" means:

(a) the LEA name;

(b) the LEA number;

(c) the physical address;

(d) the website;

(e) a phone number; and

(f) the LEA's grade range.

(13) "Local administrator" means a district superintendent or charter school director.

([7]14) "MSP" means Minimum School Program, the set of state supported K-12 public school funding programs.

(15) "School demographic information" means:

(a) the school name;

(b) the school number;

(c) the physical and mailing address;

(d) the website;

(e) a phone number;

(f) the school type; and

(g) the school grade range.

([8]16) "Schools interoperability framework" or "SIF" means an open global standard for seamless, real time data transfer and usage for Utah public schools.

([9]17) "Student achievement backpack" has the same meaning as that term is defined in Subsection 53E-3-511(1)(d).

([10]18) "Student information system" or "SIS" means a student data collection system used for Utah public schools.

(19) "UDOH" means Utah Department of Health.

([14]20) "Utah eTranscript and Record Exchange" or "UTREx" means a system that allows individual detailed student records to be exchanged electronically between public education LEAs and the Board, and allows electronic transcripts to be sent to any post-secondary institution, private or public, in-state or out-of-state, that participates in the e-transcript service.

([12]21) "Utah Student Record Store" has the same meaning as that term is defined in Subsection 53E-3-511(e).

([13]22) "Year" means both the school year and the fiscal year for a Utah LEA, which runs from July 1 through June 30.

**R277-484-3. Incorporation by Reference of Board Reporting Deadline Table.**

(1) This rule incorporates by reference the Board Reporting Deadline Table dated October 1, 2021.

(2) A copy of the Board Reporting Deadline Table is located at:

(a)

<http://schools.utah.gov/administrativerules/documentsincorporated;>

and (b) the Utah State Board of Education - 250 East 500 South, Salt Lake City, Utah - 84111.

**R277-484-[3]4. Deadlines for Data Submission.**

(1) An LEA shall submit student level data to the Board through UTREx.

NOTICES OF PROPOSED RULES

(2) An LEA shall, by 5[~~00~~] p.m. Mountain Standard Time on the date specified in [Table 1]the Board Reporting Deadline Table, submit reports in the format specified by the Superintendent.

(3) If a deadline in [Table 1]the Board Reporting Deadline Table falls on a weekend or state holiday in a given year, an LEA shall submit the report on the next business day following the date specified in [Table 1]the Board Reporting Deadline Table.

(4) An LEA shall assign an individual to oversee compliance with this rule.

[TABLE 1

Reporting Deadlines

Report	Deadline
Adult Education – Final Report –	
–Prior Year	July 15
Adult Education – Final Audit Report –	
–Prior Year	September 15
Annual Assurance Letter – R277-108	October 1
Annual Financial Report – Prior Year	October 1
Annual Program Report – Prior Year	October 1
Bus Driver Credentials Report –	
–Current Year	December 15
Bus Inventory Report	July 15
CACTUS – Final Update – Current Year	June 29
CACTUS – Midyear Update – Current Year	November 15
Charter School Projections	September 15
Classified Personnel Report – Prior Year	July 15
Community Development and	
–Renewal Agency Representative List	February 28
Driver Education Report – Prior Year	July 15
Emergency Preparedness Compliance Statement –	
–Prior Year	July 1
Emergency Response Plan – Prior Year	July 1
Enrollment and Transfer Student	
–Documentation Audit – Current Year	November 1
ESEA Choice and Supplemental Services Report –	
–Prior Year	July 15
Financial Audit Report – Prior Year	November 30
Fire Drill Compliance Statement – Prior Year	July 1
Free and Reduced Price Lunch – October 31	
–Enrollment Survey – Current Year	November 15
Home Schooled Students Report – Prior Year	July 15
Immunization Status Report	
–(to Utah Department of Health) – Final	June 15
Immunization Status Report – Current Year	November 1
LEA Budget – Next Fiscal Year	July 15
LEA Budget – Next Fiscal Year –	
–Planned Truth in Taxation Process	August 15
Membership Audit Report – Prior Year	September 15
Negotiations Report – Current Year	November 1
Other Emergency (Earthquake and	
–School Violence) Drills	
–Compliance Statement – Prior Year	July 1
Pupil Transportation – Schedule A1	
–(Miles, Minutes, Students Report) –	
–Current Year Projected	November 1
Pupil Transportation Schedule B	
–(Miscellaneous Expenditure Report) –	
–Prior Year	November 1
Pupil Transportation Statistics	
–Year End Report – Prior Year	July 15
Redevelopment Agency Taxing Entity	
–Committee Representative List	February 28
UTREx – Complete December 1 Update – Current Year	December 7
UTREx – Complete October 1 Update –	
–Current Year	October 7
UTREx – Revised December 1 Update –	
–Current Year – Significant Errors	
–Identified by the Superintendent or LEA	December 15
UTREx – Revised October 1 Update –	

~~–Current Year~~  
~~–Significant Errors Identified by~~  
~~–the Superintendent or LEA~~ \_\_\_\_\_ ~~October 15~~  
~~UTREx – Final Comprehensive Update –~~  
~~–Prior Year~~ \_\_\_\_\_ ~~July 7]~~

**R277-484-~~4]5.~~ Adjustments to Deadlines.**

(1) An LEA may seek an extension of a deadline to ensure continuation of funding and provide more accurate information to allocation formulas by submitting a written request to the Superintendent no later than 24 hours before the specified deadline in Table 1.

(2) An extension request shall include:

(a) The reasons for the extension request;

(b) The signatures of the LEA business administrator and superintendent or director; and

(c) The date by which the LEA proposes to submit the report.

(3) If an LEA requests an extension under Subsection (1), the Superintendent may do any of the following after taking into consideration the pattern of LEA compliance with reporting deadlines and the urgency of the need for the data to be submitted:

(a) Approve the request and allow the MSP fund transfer process to continue; or

(b) Deny the request and stop the MSP fund transfer process; or

(c) Recommend corrective action to the Board in accordance with Rule R277-114.

(4) If, after receiving an extension, an LEA fails to submit the report by the designated date, the MSP fund transfer process shall be stopped and the procedures described in Section R277-484-7 shall apply.

(5) An extension shall apply only to the specific reports and dates for which an extension was requested.

(6) The Superintendent may not extend deadlines for the following reports:

(a) AFR;

(b) APR;

(c) Mid-year or Final CACTUS updates;

(d) a Financial Audit Report; or

(e) any UTREx updates.

(7) Notwithstanding Subsection (6)(e), if an LEA identifies significant errors in a UTREx update, the Superintendent may grant the LEA an extension of no more than eight calendar days to file a new update.

**R277-484-~~5]6.~~ Official Data Source and Required LEA Compatibility.**

(1) The Superintendent shall load operational data collections into the Data Warehouse as of the submission deadlines specified.

(2) The Data Warehouse shall be the sole official source of data for annual:

(a) school performance reports required under Section 53E-5-204;

(b) determination of state and federal accountability reports; and

(c) submission of data files to the U.S. Department of Education via EDEN.

(3) The Superintendent shall maintain a database of LEA and school:

(a) demographic information;  
(b) openings;  
(c) closures; and  
(d) contact information for designated individuals.  
 ([3]4)(a) An LEA shall use an SIS approved by the Superintendent to ensure compatibility with Board data collection systems.

(b) The Superintendent shall maintain a list of approved student information systems.

([4]5) Prior to the Superintendent granting approval for an LEA to initiate or replace a student information system that was not previously approved, the LEA shall:

(a) send written request for approval to the Superintendent no later than November 15 of the year prior to the year the LEA proposes to use the SIS for production software;

(b) submit documentation to the Superintendent that the new or modified student information system is SIF certified;

(c) submit documentation to the Superintendent that an SIF agent can meet the UTREx specifications profile for Vertical Reporting Framework (VRF) and eTranscripts;

(d) ensure that a new student information system can generate valid data collection by submitting an actual file to the Superintendent for review;

(e) ensure that the new student information system can generate the Statewide Student Identifier (SSID) request file by submitting an actual file to the Superintendent for review.

([5]6)(a) The Superintendent shall review documentation and grant or deny an LEA submission under Subsection (4) within 30 calendar days.

(b) An approved replacement system shall run in parallel to a state-approved system for a period of at least three months and be able to generate duplicate reports to previously generated information.

([6]7) An LEA shall submit daily updates to the Board Clearinghouse using[~~all~~] School Interoperability Framework (SIF) objects defined in the UTREx Clearinghouse specification.

([7]8) An LEA shall electronically submit all public high school transcripts requested by a public education post-secondary school if the post-secondary school is capable of receiving transcripts through the electronic transcript service designated by the Superintendent.

([8]9) No later than June 30, 2017, an LEA shall ensure that data collected in the Utah Student Record Store for a Student Achievement Backpack is integrated into the LEA's SIS and is made available to a student's parent or guardian and an authorized LEA user in an easily accessible viewing format.

([9]10) Failure to comply with any of the requirements of this Section R277-484-5 may result in a recommendation for corrective action in accordance with Rule R277-114.

**R277-484-[6]7. Adjustments to Summary Statistics Based on Compliance Audits.**

(1) [~~For the purpose of allocating~~]To allocate MSP funds and projecting enrollment, the Superintendent may modify LEA level aggregate membership and fall enrollment counts on the basis of the values in the Membership and Enrollment audit reports, respectively, when an audit report review team agrees that an adjustment is warranted by the evidence of an audit.

(2) An audit report review team shall make a determination under Subsection (1) within 60 working days of the authorized audit report deadline.

(3) The Superintendent may only adjust values downward if an audit report is received after an authorized deadline.

**R277-484-[7]8. Financial Consequences of Failure to Submit Reports on Time.**

(1) If an LEA fails to submit a report by its deadline as specified in Table 1, consistent with procedures outlined in R277-114, the Superintendent may recommend corrective action, including stopping the LEA's MSP funds transfer process, unless the LEA has obtained an extension of the deadline in accordance with the procedure described in Section R277-484-4.

(2) The Superintendent may recommend loss of up to 1.0 WPU from Kindergarten or Grades 1-12 programs, depending on the grade level and aggregate membership of the student, in the current year Mid Year Update for each student whose prior year immunization status was not accounted for in accordance with [Utah Code]Section 53G-9-302 as of June 15.

**KEY: data standards, reports, deadlines**

**Date of Last Change: 2022[April 8, 2021]**

**Notice of Continuation: June 6, 2017**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-301(d) and (e); 53E-3-401; 53E-3-401(8)(a); 53E-3-511(8)2**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-491	Filing ID 54128

**Agency Information**

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

**General Information**

<b>2. Rule or section catchline:</b>
R277-491. School Community Councils
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>

This rule is being amended to clarify requirements for publicizing contact information for school community councils.

**4. Summary of the new rule or change** (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The amendments update the requirements for sharing contact information for school community councils on a school's website as outlined in Subsection R277-491-4(2)(f).

**Fiscal Information**

**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

**A) State budget:**

This rule change is not expected to have significant fiscal impact on state government revenues or expenditures. It gives more discretion to LEAs on how to meet requirements in rule while still providing a means for interested persons to contact their community council representatives.

**B) Local governments:**

This rule change is not expected to have significant fiscal impact on local governments' revenues or expenditures. It gives more discretion to LEAs on how to meet requirements in rule while still providing a means for interested persons to contact their community council representatives.

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

This rule change is not expected to have significant fiscal impact on small businesses' revenues or expenditures. It gives more discretion to LEAs on how to meet requirements in rule while still providing a means for interested persons to contact their community council representatives.

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

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

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

This rule change is not expected to have significant fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. It gives more discretion to LEAs on how to meet requirements in rule while still providing a means for interested persons to contact their community council representatives.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no significant compliance costs for affected persons. This rule change gives more discretion to LEAs on how to meet requirements in rule while still providing a means for interested persons to contact their community council representatives.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. In addition, this rule change is not expected to have direct fiscal impact on small businesses. Sydney Dickson, Superintendent

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

**Regulatory Impact Table**

Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			

State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Article X, Section 3	Section 53G-7-1203	Section 53G-7-1202
Subsection 53E-3-401(4)		

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	01/03/2022
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<b>10. This rule change MAY become effective on:</b>	01/10/2022
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	11/15/2021
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**R277. Education, Administration.**

**R277-491. School Community Councils.**

**R277-491-1. Authority and Purpose.**

(1) This rule is authorized by:  
 (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and  
 (b) 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) provide procedures and clarifying information to a school community council to assist the council in fulfilling school community council responsibilities consistent with Sections 53G-7-1202 through 53G-7-1203;

(b) provide direction to a local school board, school, and school district in establishing and maintaining a school community council;

(c) provide a framework and support for improved academic achievement of students that is locally driven from within an individual school;

(d) encourage increased participation of a parent, school employee, and others to support the mission of a school community council;

(e) increase public awareness of:  
 (i) school trust lands;  
 (ii) the permanent State School Fund; and  
 (iii) educational excellence; and  
 (f) enforce compliance with the laws governing a school community council.

(3) This rule does not apply to charter schools.

**R277-491-2. Definitions.**

(1) "Local school board" means the locally elected school board designated in Section 53G-4-201.

(2) "Parent member" means the same as the term is defined in Section 53G-7-1202.

(3)(a) "Principal" means an administrator licensed as a principal in the state and employed in that capacity at a school.

(b) "Principal" includes a specific designee of the principal.

(4) "School community" means the geographic area a school district designates as the attendance area, with reasonable inclusion of a parent of a student who attends the school but lives outside the attendance area.

(5) "Student" means a child in a public school, grades kindergarten through 12, counted on the audited October 1 fall enrollment report.

**R277-491-3. School Community Council Member Election Provisions.**

(1) In addition to the election notice requirements of Section 53G-7-1202, the principal shall provide notice of:

(a) the location where a ballot may be cast; and

(b) the means by which a ballot may be cast, whether in person, by mail, or by electronic transfer.

(2)(a) A school community council may establish a procedure that allows a parent to mail a ballot to the school in the event the distance between a parent and the voting location would otherwise discourage parental participation.

(b) A mailed or hand-delivered ballot shall meet the same timeline as a ballot voted in person.

NOTICES OF PROPOSED RULES

(3)(a) A school, school district, or local school board may allow a parent to vote by electronic ballot through a district approved election process that is consistent with the election requirements in Subsection 53G-7-1202(5).

(b) If allowed, the school or school district shall clearly explain on its website the opportunity to vote by electronic means.

(4) In the event of a change in statute or rule affecting the composition of a school community council, a council member who is elected or appointed prior to the change may complete the term for which the member was elected.

(5)(a) A public school that is a secure facility, juvenile detention facility, hospital program school, or other small or special school may receive School LAND Trust Program funds without having a school community council if the school demonstrates and documents a good faith effort to:

- (i) recruit members;
- (ii) have meetings; and
- (iii) publicize the opportunity to serve on the council.

(b) A local school board shall make the determination whether to grant the exemption for a school described in Subsection (5)(a).

**R277-491-4. School Community Council Principal Responsibilities.**

(1) Following an election, the principal shall enter and electronically sign on the School LAND Trust Program website a principal's assurance affirming:

- (a) the school community council's election;
- (b) that unfilled positions were filled by appointment as necessary, consistent with Subsection 53G-7-1202(5); and
- (c) that the school community council's bylaws or procedures comply with Sections 53G-7-1202, 53G-7-1203, and this rule.

(2) To encourage parental involvement in a school, each year the principal shall post the following information on the school's website on or before October 1:

- (a) an invitation to a parent to serve on the school community council;
- (b) the dollar amount the school receives each year from the School LAND Trust Program;
- (c) a copy of or link to the school's current Teacher and Student Success Plan;
- (d) approved minutes of the school's council meetings for ~~for~~ at least a year;
- (e) a proposed council meeting schedule for the year;
- (f) ~~direct contact information for each council member, including a telephone number or email address, or both~~ a means to contact the members of the school's community council directly;
- (g) a copy of or link to the school's plan or final report for the most recent two prior years, consistent with Section 53G-7-1206; and
- (h) a copy of or link to the school's current year plan.

**R277-491-5. School Community Council Chair Responsibilities.**

(1) After the school community council election, the school community council shall annually elect at the council's first meeting a chair and vice chair in accordance with Subsection 53G-7-1202(5)(j).

- (2) The school community council chair shall:
  - (a) set the agenda for every meeting;
  - (b) conduct every meeting;

(c) keep written minutes of every meeting, consistent with Section 53G-7-1203;

(~~e~~)d) inform council members about resources available on the School LAND Trust Program website; and

(~~f~~)e) welcome and encourage public participation in school community council meetings.

(3) The chair may delegate the responsibilities established in this section as appropriate at the chair's discretion.

**R277-491-6. School Community Council Business.**

(1)(a) The school community council shall adopt rules of order and procedure to govern a council meeting in accordance with Subsection 53G-7-1203(10).

(b) The rules of order and procedure shall outline the process for:

- (i) electing the school community council, including:
  - (A) the number of parent members and school employee members on the council; and
  - (B) member positions beginning in odd years or even years to ensure half of the council members positions are open for election each year;
- (ii) selecting a chair and vice chair;
- (iii) removing from office a member who moves away or fails to attend meetings regularly; and
- (iv) a member to declare a conflict of interest if required by the local school board's policy.

(2) The school community council shall:

- (a) report on a plan, including programs, practices, and expenditures at least annually to the local school board; and
- (b) encourage participation on the school community council by members of the school community and recruit a potential candidate to run for an open position on the council.

(3)(a) The principal shall provide an annual report to the school community council that summarizes current safety principles and practices used by the school district and school to facilitate the school community council's responsibilities under Subsection 53G-7-1202(3).

- (b) The report described in Subsection (3)(a) shall include:
  - (i) information concerning internet filtering protocols for school and district devices that access the internet;
  - (ii) local instructional practices, monitoring, and reporting procedures; and
  - (iii) internet safety training provided to a student and parent by the school or district.

(4) A school community council shall comply with the requirements of Subsection 53G-7-1202(3)(vi).

(5) A school community council may advise and inform the local school board and other members of the school community regarding the uses of School LAND Trust Program funds.

- (6) A school community council may hold electronic meetings consistent with:
  - (a) the policies of the local school board; and
  - (b) the requirements of Section 53G-7-1203.

**KEY: school community councils**  
**Date of Last Change: 2022[July 20, 2021]**  
**Notice of Continuation: July 28, 2021**  
**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); Title 53G, Chapter 7, Part 12**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-706	Filing ID 54129

**Agency Information**

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

**General Information**

<b>2. Rule or section catchline:</b>
R277-706. Regional Education Service Agencies
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
This rule is being amended due to feedback from Regional Education Service Agencies (RESAs) and State Board members on how to align this rule with best practices and consolidate reports.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
The amendments to Rule R277-706 amend: 1) RESA annual reporting requirements; 2) the Superintendent's annual legislative funding request process to a recommendation to the Legislature to increase RESA budgets by a certain percentage; and 3) streamline and reduce RESA reporting requirements.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule change is not expected to have fiscal impact on state government revenues or expenditures. It updates

this rule to reflect current reporting and accountability practices for RESAs.

**B) Local governments:**

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. It updates this rule to reflect current reporting and accountability practices for RESAs.

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

This rule change is not expected to have fiscal impacts on small businesses' revenues or expenditures. It updates this rule to reflect current reporting and accountability practices for RESAs.

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

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

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

This rule change is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. It updates this rule to reflect current reporting and accountability practices for RESAs.

**F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):**

There are no significant compliance costs for affected persons. The rule changes reflect current reporting and accountability practices for RESAs.

**G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):**

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

are not expected to receive increased or decreased revenues per year. In addition, this rule change is not expected to have direct fiscal impact on small businesses. Sydnee Dickson, Superintendent

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Article X, Section 3	Section 53G-4-410	Subsection 53E-3-401(4)
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 01/03/2022

**10. This rule change MAY become effective on:** 01/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	11/15/2021
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**R277. Education, Administration.**

**R277-706. Regional Education Service Agencies.**

**R277-706-1. Authority and Purpose.**

- (1) This rule is authorized by:
  - (a) the Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;
  - (b) Section 53G-4-410, which directs the Board to make rules regarding regional education service agencies; and
  - (c) Subsection 53E-3-401(4), which permits the Board to adopt rules in accordance with the Board's responsibilities.
- (2) The purpose of this rule is:
  - (a) to provide definitions and procedures for school districts to form interlocal agreements; and
  - (b) to provide for distribution of legislative funds to eligible regional education service agencies by the Board.

**R277-706-2. Definitions.**

- (1) "Eligible Regional education service agency" or "Eligible RESA" has the same meaning as the term is defined in Section 53G-4-410.
- (2) "Regional education service agency" or "RESA" has the same meaning as the term is defined in Section 53G-4-410.

**R277-706-3. Regional Education Service Agencies.**

- (1) Two or more school districts may enter into an interlocal agreement and form regional education service agency as described in Section 53G-4-410.
- (2) An interlocal agreement described in Subsection (1) shall confirm or formalize a RESA as described in Subsection 53G-4-410(4) as of the effective date of the agreement.
- (3) A RESA may provide services and participate in programs consistent with state law and Board rule, including:
  - (a) apply for any grant or program in which an LEA may participate on behalf of its LEAs if the RESA has written consent from the LEAs that the RESA serves;

(b) apply for any grant or program in addition to its LEAs in accordance with the Board rule implementing the grant or program;

(c) recommend educators to USBE for licensing;

(d) provide student services as approved by the RESA's board;

(e) access, Board systems, on behalf of member LEAs, as approved by the Superintendent;

(f) elect to participate as an employer for retirement programs in the Public Employees Contributory retirement program; ~~and~~

(g) may receive services from or partner with any department, division, or agency of the state, including coverage through the Division of Risk Management in accordance with Subsection 53G-4-410(3)(c); and

(h) may charge indirect costs to a state funded program as described in R277-424.

(4) A RESA does not have authority over the LEAs which the RESA serves.

**R277-706-4. Distribution of Funds.**

(1) The Superintendent shall distribute funds, if provided by the Legislature, in equal amounts to each eligible regional education service agency if the RESA:

(a) submits the RESA's annual report described in Subsection R277-706-5(1)[a request for funds]; and

(b) satisfies all requirements established by the Board.

(2) The Superintendent shall provide notice to an eligible RESA of the deadlines and requirements for the annual report[~~a request for funds~~] described in Subsection (1)(a).

(3) Subject to legislative appropriation, the Superintendent shall distribute funds to an eligible RESA after July 1 annually.

(4) The Board may provide additional funding, if available, to a RESA without prejudice to existing legislative appropriations to eligible RESAs.

(5) The Superintendent shall review the funding the legislature appropriates to support eligible RESAs by October 1 annually and make recommendations for consideration by the Board.

(6) The Superintendent shall:

(a) include the RESA appropriation as a category in the Board's annual funding requests to be considered by the Board to receive an increase of the appropriation up to the percentage increase approved for state employees during the previous fiscal year; and

(b) including the request described in Subsection (6)(a) as part of the Board's recommendation to the Governor's budget office in accordance to the budgetary procedures act.

**R277-706-5. Eligible Regional Education Service Agency Responsibilities.**

(1) An eligible regional education service agency shall submit an annual report[~~application for available funds~~] to the Superintendent.

(2) An eligible RESA's annual report[~~application for funds~~] shall include:

(a) if amended or updated within the previous year, a copy of the eligible RESA's completed interlocal agreement;

(b) a proposed budget and [~~request for~~]use of funds;

(c) a [~~current~~]copy of the previous fiscal year's:

(i) external audit report, management letter, and if applicable, corrective action plan related to audit findings; and

(ii) financial statements[~~of the eligible RESA's assets and liabilities~~]; and

(d) assurance, signed by the executive director and chair of the eligible RESA's board of directors[~~all parties to the interlocal agreement~~], that the eligible RESA will provide the eligible RESA's records to the Superintendent upon request[;]

(e) [~~an annual~~]a financial report from the [previous]current fiscal year[; and

(f) a plan for the use and distribution of the eligible RESA's funds for the applicable fiscal year with specific attention to:

(i) the delivery of Utah Education Network and Telehealth services to the LEAs within the eligible RESA; and

(ii) the delivery of education related services].

(3) An eligible regional service center shall provide an annual performance report to the Superintendent and the Board[; ~~including the following information:~~

~~(a) the eligible regional service center's delivery of Utah Education and Telehealth Network services;~~

~~(b) the eligible regional service center's type, amount, and effectiveness of delivery of public and higher education related services; and~~

~~(c) the eligible regional service center's coordination of public and higher education related services.]~~

**R277-706-6. Regional Education Service Agency Coordinating Council.**

(1) There is hereby created a regional education service agency coordinating council.

(2) The council is an advisory body, which shall consist of the following members:

(a) the executive director of each RESA;

(b) the board chair of each RESA's governing board;

(c) A member of the Board appointed by the Board chair;

and

(d) the Superintendent.

(3) The council created in Subsection (1) shall be chaired by one of the RESA board chairs as selected by the council's members.

(4) The regional education service agency coordinating council shall meet at least biannually, but may meet more often if necessary, to coordinate with the Superintendent on implementing state initiatives in the areas the RESAs cover.

**KEY: eligible regional service agencies**

**Date of Last Change: 2022[December 16, 2020]**

**Notice of Continuation: August 6, 2019**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53G-4-410; 53E-3-401(4)**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-925	Filing ID 54130

**Agency Information**

1. Department:	Education
Agency:	Administration
Building:	Board of Education
Street address:	250 E 500 S

NOTICES OF PROPOSED RULES

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

**General Information**

<b>2. Rule or section catchline:</b>
R277-925. Effective Teachers in High Poverty Schools Incentive Program
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
This rule is being amended due to passage of H.B. 323, High Poverty Schools Teacher Bonus Program Amendments, passed in the 2021 General Session which required USBE to: 1) establish a method for norm-referencing available reading assessment data for grade 4; and 2) set criteria for the purpose of determining teacher eligibility for salary bonuses awarded in the 2021-2022 school year for teachers in grade 4.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
The amendments to this rule include a method for norm-referencing available reading assessment data for grade 4 and set criteria to determine teacher eligibility for salary bonuses awarded in the 2021-2022 school year for teachers in grade 4.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule change is not expected to have fiscal impact on state government revenues or expenditures. The amendments remove duplication and provide additional clarity on the USBE internal audit process.
<b>B) Local governments:</b>
This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. The amendments to this rule affect only the Utah School for the Deaf and the Blind (USDB).

<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. The amendments to this rule affect only USDB.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):
This rule change is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The amendments to this rule affect only USDB.
<b>F) Compliance costs for affected persons</b> (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs for affected persons. The amendments to this rule affect only USDB.
<b>G) Comments by the department head on the fiscal impact this rule may have on businesses</b> (Include the name and title of the department head):
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. In addition, this rule change is not expected to have direct fiscal impact on small businesses. Sydnee Dickson, Superintendent
<b>6. A) Regulatory Impact Summary Table</b> (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>B) Department head approval of regulatory impact analysis:</b>			
The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.			

**Citation Information**

<b>7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Article X, Section 3	Subsection 53F-2-513(2)(b)	Subsection 53E-3-401(4)

**Public Notice Information**

<b>9. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
<b>A) Comments will be accepted until:</b>	01/03/2022

<b>10. This rule change MAY become effective on:</b>	01/10/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	11/15/2021
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**R277. Education, Administration.**

**R277-925. Effective Teachers in High Poverty Schools Incentive Program.**

**R277-925-1. Authority and Purpose.**

- (1) This rule is authorized by:
- (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
  - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
  - (c) Subsection 53F-2-513(2)(b), which requires the Board to make rules for the administration of the Effective Teachers in High Poverty Schools Incentive Program.

(2) The purpose of this rule is to:

\_\_\_\_\_ (a) provide standards and procedures for the administration of the Effective Teachers in High Poverty Schools Incentive Program; and

\_\_\_\_\_ (b) establish a method for determining teacher eligibility for salary bonuses awarded in the 2022-2023 school year for teachers in grade 4 as required in Subsection 53F-2-513(2)(b)(iv).

**R277-925-2. Definitions.**

(1) "Benchmark assessment" means the assessment described in Section 53E-4-307.

(2) "Eligible teacher" means:

\_\_\_\_\_ (a) the same as that term is defined in Section 53F-2-513; and

\_\_\_\_\_ (b) a teacher who is a regular or special education classroom teacher.

(3) "High poverty school" means the same as that term is defined in Section 53F-2-513.

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

(5) "Median growth percentile" or "MGP" means the same as that term is defined in Section 53F-2-513.

(6) "Program" means the Effective Teachers in High Poverty Schools Incentive Program.

(7) "Standards assessment" means the assessment described in Section 53E-4-303.

(8) "State-assessed subject" means English language arts, mathematics, or science.

**R277-925-3. Administration of the Program.**

(1) On or before December 1, the Superintendent shall:

NOTICES OF PROPOSED RULES

- (a) identify high poverty schools and eligible teachers in accordance with Subsection (2);
- (b) distribute a list of eligible teachers to LEAs; and
- (c) inform LEAs of program requirements and the timeline for applying on behalf of an eligible teacher.

(2) The Superintendent shall identify:

(a) high poverty schools based on the proportion of students who:

(i) qualify for free or reduced lunch in the current school year, based on:

(A) the most recent end of school year enrollment headcounts for existing schools; or

(B) the October 1 enrollment headcounts for new schools; and

(ii) are classified as children affected by intergenerational poverty, as determined by the Utah Department of Workforce Services, for the most recent year data is available; and

(b) eligible teachers by determining:

(i) whether the teacher's MGP was greater than or equal to 70:

(A) for at least one state-assessed subject taught by the teacher;

(B) as measured by student performance on a standards assessment;

(C) two years before the current school year; and

(D) excluding subjects or teachers with less than ~~[40]~~ten tested students; or

(ii) for a teacher in grades 1-3, whether at least 85% of the teacher's students assess as typical or better on an end of year benchmark assessment.

(3) An eligible teacher who is part-time in a regular or special education classroom assignment in the current year shall receive a partial salary bonus based on the number of hours worked in the classroom assignment.

~~[(3)]~~(4) To receive matching funds for the program, on or before January 15, an LEA shall:

(a) apply on behalf of an eligible teacher; and

(b) provide assurances that the LEA will pay half of the:

(i) teacher salary bonus; and

(ii) employer-paid benefits described in Section 53F-2-513.

~~[(4)]~~(a) Subject to legislative appropriations, on or before June 1, the Superintendent shall:

(i) ensure that a teacher who was determined eligible under Subsection (1) and (2) taught at a high poverty school for the full school year; and

(ii) distribute to an LEA that meets the criteria described in Subsection ~~[(3)]~~4 half of the:

(A) teacher salary bonus; and

(B) employer-paid benefits described in Section 53F-2-513.

(b) Consistent with Section 53F-2-513, the Superintendent may distribute the funds on a pro rata basis if the number of eligible applicants exceeds the amount of available funds.

~~[(5)]~~6(a) An LEA or an eligible teacher may appeal eligibility to the Superintendent on the basis that the teacher:

(i) is teaching at a high poverty school;

(ii) is an eligible teacher; or

(iii) has less than ~~[40]~~ten tested students, but can demonstrate extenuating circumstances that merit an exception.

(b) An LEA or eligible teacher shall provide documentation to the Superintendent to assist the Superintendent in deciding on the appeal.

(7) For purposes of determining whether a teacher who teaches grade 4 is eligible for a salary bonus in the 2022-2023 school year, a teacher is eligible if at least 85% of the teacher's students' progress is assessed as typical or better based on the beginning of year to end of year benchmark assessment described in Section 53F-2-503 for 2020-21 school year.

(8) An LEA that intends to apply on behalf of an eligible teacher who teaches grade 4 for a salary bonus for the 2022-2023 school year, shall provide the Superintendent grade 4 benchmark assessment data necessary to determine whether the LEA's grade 4 teachers meet the criteria described in Subsection (7).

**KEY: teachers, poverty schools, incentives**

**Date of Last Change: 2022[August 12, 2021]**

**Notice of Continuation: June 4, 2021**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-2-513**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R309-200-5	Filing ID 54090

**Agency Information**

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Drinking Water	
<b>Building:</b>	Multi-Agency State Office Building	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 144830	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4830	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Julie Cobleigh	385-214-9770	jjcobleigh@utah.gov
Dani Zebelean	385-278-5110	dzebelean@utah.gov
Michael Newberry	385-515-1464	mnewberry@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R309-200-5. Primary Drinking Water Standards

**3. Purpose of the new rule or reason for the change** (Why is the agency submitting this filing?):

The Division of Drinking Water (Division) is proposing to amend Subsection R309-200-5(5)(a) to clarify a turbidity limit, provide water suppliers with a consistent turbidity standard for membrane facilities treating surface water, and to correct errors in the subsection.

**4. Summary of the new rule or change** (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

Subsection R309-200-5(5)(a)(i)(B) currently requires turbidity samples from combined filter effluent for conventional or direct filtration not to exceed 1 Nephelometric Turbidity Unit (NTU) at any time. With the rounding of turbidity results, the actual combined-filter-effluent-turbidity level can be up to 1.49 NTU's and still meet the 1 NTU requirement. Therefore, the proposed amendment revises the combined-filter-effluent-turbidity limit from 1 NTU to 1.0 NTU to assure compliance with the 1 NTU requirement.

In Subsection R309-200-5(5)(a)(ii), the reference to Section R309-200-7 is incorrect and is being corrected to Subsection R309-200-5(7); a missing period is being added to the last sentence in Subsection R309-200-5(5)(a)(ii); and new turbidity performance requirements are being added for water suppliers using membrane filtration to treat surface water or groundwater under the direct influence of surface water. The turbidity performance requirements are being added in conjunction with the amendment of Section R309-530-8, Membrane Technology.

(EDITOR'S NOTE: The amendment to Rule R309-530 is under ID 54089 in this issue, December 1, 2021, of the Bulletin.)

**Fiscal Information**

**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

**A) State budget:**

The proposed amendment is anticipated to have no aggregate costs or savings to the state budget because it has no effect on government resources needed to implement the amendment.

**B) Local governments:**

The proposed amendment is anticipated to have no aggregate costs or savings to local governments. The amendment only applies to a local government that owns or operates a public drinking water system that treats surface water with conventional filtration, direct filtration, or membrane filtration. Other than correcting errors and clarifying the combined-filter-effluent-turbidity limit for conventional or direct filtration, the proposed amendment

codifies turbidity performance requirements that until now have been set by the director with each approval of a membrane filtration facility. Membrane filtration facilities that are properly designed, operated, and maintained can consistently produce filtered water turbidity levels below the new turbidity performance requirements.

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

The proposed amendment is anticipated to have no aggregate costs or savings to small businesses. The amendment only applies to a small business that owns or operates a public drinking water system that treats surface water with conventional filtration, direct filtration, or membrane filtration. Other than correcting errors and clarifying the combined-filter-effluent-turbidity limit for conventional or direct filtration, the proposed amendment codifies turbidity performance requirements that until now have been set by the director with each approval of a membrane filtration facility. Membrane filtration facilities that are properly designed, operated, and maintained can consistently produce filtered water turbidity levels below the new turbidity performance requirements.

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

The proposed amendment is anticipated to have no aggregate costs or savings to non-small businesses. The amendment only applies to a non-small business that owns or operates a public drinking water system that treats surface water with conventional filtration, direct filtration, or membrane filtration. Other than correcting errors and clarifying the combined-filter-effluent-turbidity limit for conventional or direct filtration, the proposed amendment codifies turbidity performance requirements that until now have been set by the director with each approval of a membrane filtration facility. Membrane filtration facilities that are properly designed, operated, and maintained can consistently produce filtered water turbidity levels below the new turbidity performance requirements.

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

The proposed amendment is anticipated to have no aggregate costs or savings to persons other than small businesses, non-small businesses, state government, or local governments. The amendment applies to public water systems that treat surface water with conventional filtration, direct filtration, or membrane filtration. Other than correcting errors and clarifying the combined-filter-effluent-turbidity limit for conventional or direct filtration, the proposed amendment codifies turbidity performance requirements that until now have been set by the director with each approval of a membrane filtration facility. Membrane filtration facilities that are properly designed, operated, and maintained can consistently produce filtered

water turbidity levels below the new turbidity performance requirements.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

The proposed amendment is expected to have no new compliance costs for most affected persons, which are public water systems that treat surface water with conventional filtration, direct filtration, or membrane filtration. Other than correcting errors and clarifying the combined-filter-effluent-turbidity limit for conventional or direct filtration, the proposed amendment codifies turbidity performance requirements that until now have been set by the director with each approval of a membrane filtration facility. Most of the current membrane facilities are able to meet the new turbidity performance standards. Three very small membrane facilities may not be able, as currently operated, to consistently meet the new standard.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

The proposed amendment will have no fiscal impact on businesses in Utah. Kimberly Shelley, Executive Director

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

Regulatory Impact Table			
Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Environmental Quality, Kimberly Shelley, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Subsection		
19-4-104(1)(a)(i)		

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	01/03/2022
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<b>10. This rule change MAY become effective on:</b>	01/10/2022
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Tim Davis, Director	<b>Date:</b>	11/09/2021
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**R309. Environmental Quality, Drinking Water.**  
**R309-200. Monitoring and Water Quality: Drinking Water Standards.**  
**R309-200-5. Primary Drinking Water Standards.**

.....

(5) TURBIDITY  
 (a) All public water systems using surface water or ground water under the direct influence of surface water shall provide treatment consisting of both disinfection, as specified in R309-200-5(7)(a), and filtration treatment which complies with the requirements of paragraph (i), (ii) or (iii) of this section.

(i) Conventional filtration treatment or direct filtration.

(A) For systems using conventional filtration or direct filtration, the turbidity level of representative samples of a system's combined filtered effluent water shall be less than or equal to 0.3 NTU in at least 95 percent of the measurements taken each month, measured as specified in R309-200-4(3) and R309-215-9.

(B) The turbidity level of representative samples of a system's combined filtered effluent water shall at no time exceed 1.0 NTU, measured as specified in R309-200-4(3) and R309-215-9.

(C) A system that uses lime softening may acidify representative samples prior to analysis using a protocol approved by the Director.

(ii) Filtration technologies other than conventional filtration treatment, direct filtration, slow sand filtration, or diatomaceous earth filtration. A public water system may use a filtration technology not listed in paragraph (i) or (iii) of this subsection if it demonstrates to the Director, using pilot plant studies or other means, that the alternative filtration technology, in combination with disinfection treatment that meets the requirements of R309-200-5(7), consistently achieves 99.9 percent removal and/or inactivation of *Giardia lamblia* cysts and 99.99 percent removal and/or inactivation of viruses, and 99 percent removal of *Cryptosporidium* oocysts, and the Director approves the use of the filtration technology. For each approval, the Director will set turbidity performance requirements that the system shall meet at least 95 percent of the time and that the system may not exceed at any time at a level that consistently achieves 99.9 percent removal and/or inactivation of *Giardia lamblia* cysts, 99.99 percent removal and/or inactivation of viruses, and 99 percent removal of *Cryptosporidium* oocysts. For alternative filtration technology using membrane filtration, the turbidity performance requirements shall be a turbidity level of less than or equal to 0.1 NTU in at least 95 percent of the measurements taken each month and that at no time exceeds 0.5 NTU, measured as specified in Subsection R309-200-4(3) and Section R309-215-9. For alternative filtration technology other than membrane filtration, [F]the turbidity level of representative samples shall at no time exceed 5.0 NTU for any treatment technique, measured as specified in R309-215-9(1)(c) and (d).

(iii) The turbidity limit for slow sand filtration and diatomaceous earth filtration shall be less than or equal to 1.0 NTU in at least 95 percent of the measurements taken each month, measured as specified in R309-215-9(1)(c) and (d). For slow sand filtration only, if the Director determines that the system is capable of achieving 99.9 percent removal and inactivation of *Giardia lamblia* cysts at some turbidity level higher than 1.0 NTU in at least 95 percent of the measurements, the Director may substitute this higher turbidity limit for that system. The turbidity level of representative samples shall at no time exceed 5.0 NTU for any treatment technique, measured as specified in R309-215-9(1)(c) and (d).

(c) Ground water sources not under the direct influence of surface water:

(i) The following turbidity limit applies to community water systems only.

(ii) The limit for turbidity in drinking water from ground water sources not under the direct influence of surface sources is 5.0 NTU based on an average for two consecutive days pursuant to R309-205-8(3).

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**KEY: drinking water, quality standards, regulated contaminants**  
**Date of Last Change: 2022[January 15, 2019]**  
**Notice of Continuation: March 12, 2020**  
**Authorizing, and Implemented or Interpreted Law: 19-4-104**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R309-530	Filing ID 54089

**Agency Information**

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Drinking Water	
<b>Building:</b>	Multi-Agency State Office Building	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 144830	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4830	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Julie Cobleigh	385-214-9770	jjcobleigh@utah.gov
Dani Zebelean	385-278-5110	dzebelean@utah.gov
Michael Newberry	385-515-1464	mnewberry@utah.gov

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

**General Information**

<b>2. Rule or section catchline:</b>
R309-530. Facility Design and Operation: Alternative Surface Water Treatment Methods
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
The Division of Drinking Water (Division) is proposing to amend three sections in Rule R309-530 to provide detailed design and construction standards for membrane filtration facilities treating surface water and groundwater under the direct influence of surface water and to update certain requirements for all types of alternative filtration.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
Section R309-530-4 is being edited for clarity and new requirements for the collection of source water quality data are being added for all types of alternative filtration.
Section R309-530-8 currently has minimal requirements for the design, construction, and operation of membrane filtration facilities. It requires a water supplier that

proposes the use of membrane filtration to do a pilot study. It also requires a membrane treatment facility to have an on-line particle counter for the final effluent and an automatic membrane integrity test system. That is the extent of the current requirements.

The proposed amendment to Section R309-530-8 adds extensive requirements for the design, construction, and operation of membrane facilities that treat surface water or groundwater under the direct influence of surface water. The proposed amendment includes a new section title (Membrane Filtration), 25 new definitions, and a new applicability subsection. It also includes new requirements for challenge testing of proposed membrane modules, pilot testing of proposed membrane modules, preparation of a preliminary design report, facility design, facility start-up, obtaining an operating permit, membrane integrity testing and monitoring, membrane replacement, and calibration of instrumentation.

Additionally, Section R309-530-8 currently requires the director to establish turbidity limits for a membrane facility and requires plant effluent to meet the primary drinking water standards for turbidity. Since these requirements are already included in a subsection of another rule, Subsection R309-200-5(5), the amendment removes the repetitive requirements from Section R309-530-8 and replaces them with references to Subsection R309-200-5(5).

Section R309-530-9 is being amended to remove a reference to a technology verification program that no longer exists and to replace an incorrectly used word (insure).

**Fiscal Information**

**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

**A) State budget:**

The proposed amendment is anticipated to have no aggregate costs or savings to the state budget because it has no effect on government resources needed to implement the amendment.

**B) Local governments:**

The proposed amendment will have no aggregate costs or savings for the majority of local governments because it only applies to a local government that owns or operates a public water system that either has, or plans to construct, a membrane filtration facility to treat surface water.

Because the amendment codifies industry design standards and the process currently used by the Division to review and approve a membrane filtration treatment facility, it is anticipated to have no new incremental costs or savings for proposed facilities.

The aggregate compliance costs are unquantifiable for the approximately 10 existing membrane filtration facilities owned or operated by local governments because there is no way to predict what, if anything, will need to be done by a particular water supplier to comply with a requirement of the proposed amendment.

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

The proposed amendment will have no aggregate costs or savings for the majority of small businesses because it only applies to a small business that owns or operates a public water system that either has, or plans to construct, a membrane filtration facility to treat surface water.

Because the amendment codifies industry design standards and the process currently used by the Division to review and approve a membrane filtration treatment facility, it is anticipated to have no new incremental costs or savings for proposed facilities.

The aggregate compliance costs are unquantifiable for the approximately five existing membrane filtration facilities owned or operated by small businesses because there is no way to predict what, if anything, will need to be done by a particular water supplier to comply with a requirement of the proposed amendment.

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

The proposed amendment will have no aggregate costs or savings for the majority of non-small businesses because it only applies to a non-small business that owns or operates a public water system that either has, or plans to construct, a membrane filtration facility to treat surface water.

Because the amendment codifies industry design standards and the process currently used by the Division to review and approve a membrane filtration treatment facility, it is anticipated to have no new incremental costs or savings for proposed facilities.

The aggregate compliance costs are unquantifiable for the approximately seven existing membrane filtration facilities owned or operated by non-small businesses because there is no way to predict what, if anything, will need to be done by a particular water supplier to comply with a requirement of the proposed amendment.

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

The proposed amendment applies to public water suppliers that either have, or plan to construct, membrane filtration facilities to treat surface water.

Because the amendment codifies industry design standards and the process currently used by the Division to review and approve a membrane filtration treatment facility, it is anticipated to have no new incremental costs or savings for proposed facilities.

The aggregate compliance costs are unquantifiable for the approximately 22 existing membrane filtration facilities owned or operated by public water suppliers because there is no way to predict what, if anything, will need to be done by a particular water supplier to comply with a requirement of the proposed amendment.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

The proposed amendment is likely to have no new compliance costs for a water supplier designing and constructing a new membrane treatment facility to provide drinking water. Although the proposed amendment is substantially longer and more detailed than the current membrane treatment section of the rule, it is primarily codifying the current process followed by the Division for review and approval of membrane filtration facilities used for drinking water treatment.

The compliance costs are unquantifiable for an existing membrane filtration facility owned or operated by a public water supplier because there is no way to predict what, if anything, will need to be done by a particular water supplier to comply with a requirement of the proposed amendment.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

The proposed amendment will have no fiscal impact on businesses in Utah that do not own or operate public drinking water systems.

The proposed amendment will have no new fiscal impact on a business in Utah that owns or operates a public water system and proposes to design and construct a new membrane treatment facility to provide drinking water.

The proposed amendment could have a fiscal impact on a business that owns or operates an existing membrane filtration system providing public drinking water if it had to retrofit the facility to comply with a requirement of the proposed amendment. The fiscal impact in such case is unquantifiable because of the unique nature of what, if anything, would need to be retrofitted.

Kimberly Shelly, Executive Director

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Environmental Quality, Kimberly Shelley, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Subsection 19-4-104(1)(a)(ii)		
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	01/03/2022
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<b>10. This rule change MAY become effective on:</b>	01/10/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Tim Davis, Director	<b>Date:</b>	11/09/2021
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**R309. Environmental Quality, Drinking Water.  
R309-530. Facility Design and Operation: Alternative Surface Water Treatment Methods.**

**R309-530-4. General.**

(1) Alternative Methods.

In addition to conventional surface water treatment, ~~method~~ ~~(i.e.)~~ coagulation, sedimentation, and filtration as outlined in Rule R309-525, several alternative filtration methods may ~~also~~ be suitable for treating surface water. They are: ~~[D] direct [F] filtration~~, ~~[S] slow [S] sand [F] filtration~~, ~~[M] membrane [F] filtration~~, and ~~[D] diatomaceous [E] earth [F] filtration~~.

(2) Incorporation of Other Rules.

~~For each process described in this section pertinent rules are given. The designer shall also incorporate the relevant rules given in other sections into the plans and specifications for any of these specialized treatment methods. Where applicable, the following topics shall be addressed:~~ The following requirements are incorporated into Sections R309-530-5 through R309-530-9 for alternative surface water treatment methods.

- (a) Plant Siting, ~~[(see) Section R309-525-6]~~.
- (b) Pre-design Submittal, ~~[(see) Subsection R309-515-5(2)]~~.
- (c) Plant Reliability, ~~[(see) Section R309-525-7]~~.
- (d) Color Coding and Pipe Marking, ~~[(see) Section R309-525-8]~~.
- (e) Chemical Addition, ~~[(see) Section R309-525-11]~~.
- (f) Miscellaneous Plant Facilities, ~~[(see) Section R309-525-17, particularly including [s] Subsection R309-525-17(1), Laboratory]~~.
- (g) Operation and Maintenance Manuals, ~~[(see) Section R309-525-19]~~.
- (h) Safety, ~~[(see) Section R309-525-21]~~.
- (i) Disposal of Treatment Plant Waste, ~~[(see) Section R309-525-23]~~.
- (j) Disinfection, ~~[(see) Rule R309-520]~~.

(3) Source Water Quality Data.

- (a) A water supplier proposing to use alternative filtration to treat surface water or groundwater under the direct influence of surface water shall obtain sufficient source water quality data to:
  - (i) determine the feasibility of alternative filtration treatment;
  - (ii) identify substances that may affect the alternative filtration process and finished water quality;
  - (iii) estimate productivity of the alternative filtration process; and
  - (iv) determine if seasonal variation is substantial enough to affect design.

(b) Source water quality data required by Subsection R309-530-4(3) shall be collected no more than two years prior to the date that plans and specifications for a treatment facility are submitted to the division.

(c) The source water quality data for alternative filtration shall include at least:

- (i) one round of sampling for the contaminants required for initial analysis by Subsection R309-515-4(5); and
- (ii) four quarters of sampling collected over a period of 12 months for:
  - (A) alkalinity;
  - (B) pH;
  - (C) temperature;
  - (D) total organic carbon;
  - (E) total suspended solids;
  - (F) turbidity; and
  - (G) any additional parameter needed to design the treatment facility as determined by consultation with the division.

(d) No later than the date that plans and specifications for an alternative filtration facility are submitted to the division, a water supplier shall also submit:

- (i) a summary of source water quality data used to design the facility; and
- (ii) a description of how the source water quality data address items (i) through (iv) of Subsection R309-530-4(3)(a).

**R309-530-8. Membrane Technology.**

(1) Acceptability.

Surface waters, or groundwater under the direct influence of surface water (UDI), may be treated using membrane technology (microfiltration, ultrafiltration, nanofiltration) coupled with "primary and secondary disinfection."

(2) Pilot Plant Study.

Because this is a relatively new technology, appropriate investigation shall be conducted by the public water system to assure that the process will produce the required quality of water at a cost which can be borne by the public water system consumers. A pilot plant study shall be conducted prior to the commencement of design. The study must be conducted in accordance with EPA's Environmental Technology Verification Program (ETV) or the protocol and treated water parameters must be approved prior to conducting any testing by the Director.

(3) Design Requirements.

The following items shall be addressed in the design of any membrane technology plant intended to provide microbiological treatment of surface waters or groundwater "UDI:"

- (a) The facility shall be equipped with an on-line particle counter on the final effluent.
- (b) The facility shall be equipped with an automatic membrane integrity test system.

(4) The Director shall establish the turbidity limit for 95% of turbidity measurements and the maximum turbidity limit which shall not be exceeded. The plant effluent shall meet the requirements of R309-200-5(5)(a)(ii).

**R309-530-8. Membrane Filtration.**

(1) Definitions.

(a) "Backwash" means the cleaning operation that typically involves periodic reverse flow to remove foulants accumulated at the membrane surface or the intermittent waste stream from a microfiltration or ultrafiltration membrane system.

(b) "Baseline Response" means the amount of airflow or pressure decay due to diffusion of air through water in wetted pores or membrane material in an integral membrane unit.

(c) "Challenge Test" means a study conducted to determine the removal efficiency, known as the log removal value, of a membrane material for a particular organism, particulate, or surrogate.

(d) "Chemically Enhanced Backwash" means a backwash process that includes the addition of chemicals to reduce or remove membrane foulants.

(e) "Clean-in-Place (CIP)" means the periodic application of a chemical solution, or series of chemical solutions, to a membrane unit for the intended purpose of removing accumulated foulants and thus restoring permeability and resistance to baseline levels; commonly used term for in-situ chemical cleaning.

(f) "Concentrate" means the continuous waste stream, typically consisting of concentrated dissolved solids, from a membrane process, usually in association with nanofiltration and reverse osmosis processes; in some cases, also used to describe a continuous bleed stream of concentrated suspended solids wasted from microfiltration and ultrafiltration systems operated in a crossflow, or feed-and-bleed, hydraulic configuration.

(g) "Control Limit" means a response from an integrity test, which, if exceeded, indicates a potential problem with the membrane filtration system and triggers a response; synonymous with "upper control limit" as used in the United States Environmental Protection Agency's Membrane Filtration Guidance Manual, EPA 815-R-06-009, to distinguish from additional voluntary or State-mandated "lower control limits."

(h) "Differential Pressure" means pressure drop across a membrane module or unit from the feed inlet to concentrate outlet, as distinguished from transmembrane pressure, which represents the pressure drop across the membrane barrier.

(i) "Direct Integrity Test (DIT)" means a physical test applied to a membrane unit to identify and isolate integrity breaches.

(j) "Feedwater" means the influent stream to a water treatment process.

(k) "Filtrate" means the water produced from a membrane filtration unit.

(l) "Foulant" means a substance that causes fouling.

(m) "Fouling" means the gradual accumulation of contaminants on a membrane surface or within a porous membrane structure that inhibits the passage of water, thus decreasing productivity.

(n) "Flux" means the filtration rate of a membrane filtration system expressed as flow per unit of membrane area, such as gallons per square foot per day.

(o) "Indirect Integrity Monitoring" means monitoring some aspect of filtrate water quality that is indicative of the removal of particulate matter.

(p) "Log Removal Value (LRV)" means the filtration removal efficiency for a target organism, particulate, or surrogate expressed as  $\log_{10}$ ;  $LRV = \log_{10}(\text{feed concentration}) - \log_{10}(\text{filtrate concentration})$ .

(q) "Maintenance Clean" means a routine, short-duration chemical cleaning to minimize the accumulation of foulants.

(r) "Membrane Unit" means a group of membrane modules that share common valving that allows the unit to be isolated from the rest of the system for integrity testing or other maintenance.

(s) "Membrane Module" means the smallest component of a membrane unit in which a specific membrane surface area is housed in a device with a filtrate outlet structure.

(t) "Normalized Flux" means the filtration rate of a membrane filtration system expressed as flow per unit of membrane area, such as gallons per square foot per day, at a given reference temperature for monitoring system productivity independent of changes in water temperature. For microfiltration, ultrafiltration, and membrane cartridge filtration, 20 degrees Celsius is used for normalization. For nanofiltration and reverse osmosis, 25 degrees Celsius is used for normalization.

(u) "Productivity" means the amount of filtered water that can be produced from a membrane module, filtration unit, or system over a period of time, accounting for the use of filtrate in backwash and chemical cleaning operations, as well as otherwise productive time that a unit or system is offline for routine maintenance processes such as backwashing, chemical cleaning, integrity testing, or repair.

(v) "Recovery" means the volumetric percent of feedwater that is converted to filtrate in the treatment process over the course of an operating cycle uninterrupted by chemical cleaning or a solids-removal process such as backwashing and excluding losses that occur due to the use of filtrate in backwashing or cleaning operations.

(w) "Resolution" means the size of the smallest integrity breach that contributes to a response from a DIT; also applicable to some indirect integrity monitoring methods.

(x) "Sensitivity" means the maximum LRV that can be reliably verified by a DIT; also applicable to some continuous indirect integrity monitoring methods.

(y) "Transmembrane Pressure (TMP)" means the difference in pressure from the feed, or feed-concentrate average, if applicable, to the filtrate across a membrane barrier.

(2) Applicability. The requirements of Section R309-530-8 apply to membrane filtration used to treat surface water or groundwater under the direct influence of surface water to:

(a) obtain LRV credit for Giardia, Cryptosporidium, and viruses;

(b) meet the turbidity treatment technique requirements of Rule R309-200; or

(c) meet the filtration treatment technique requirements for enhanced treatment for Cryptosporidium of Section R309-215-15.

(3) Turbidity Treatment Technique and Performance Requirements.

(a) The turbidity treatment technique and turbidity performance requirements for a water system using membrane filtration to treat surface water or groundwater under the direct influence of surface water are specified in Subsection R309-200-5(5)(a)(ii).

(b) To receive log removal credit for Giardia, Cryptosporidium, or viruses under Subsection R309-200-5(5)(a)(ii), a membrane shall:

(i) meet the definition of membrane filtration in Rule R309-110;

(ii) be capable of establishing removal efficiency through product-specific challenge testing and direct integrity testing; and

(iii) undergo direct integrity testing and continuous indirect integrity monitoring during operation.

(4) Challenge Testing of Membrane Modules and LRV Credit.

(a) A membrane module proposed for treatment of surface water or groundwater under the direct influence of surface water shall:

(i) undergo product-specific challenge testing meeting the requirements of Subsection R309-215-15(18)(b)(ii) to evaluate the membrane's removal efficiency; and

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(ii) either have NSF/ANSI 419 certification or be accepted by a state with a public drinking water program approved by U.S. EPA.

(b) A water supplier shall submit challenge test results for a proposed membrane module to the division for review prior to pilot testing and facility design.

(c) The division shall award a maximum LRV credit for Giardia, Cryptosporidium, and viruses to a membrane module proposed by a water supplier to be used for design of a membrane filtration facility.

(d) A water supplier shall verify an LRV credit awarded to a membrane module by direct integrity testing meeting the requirements of Subsection R309-215-15(18)(b)(iii) during normal operation of a constructed membrane filtration facility.

(5) Pilot Test or Comparable Full-Scale Membrane Filtration Operational Data. Prior to design of a membrane filtration facility, a water supplier shall:

(a) complete a pilot test of a proposed membrane module; or

(b) request and receive approval from the division to use comparable operational data from a full-scale membrane facility treating water of the same or similar quality for a proposed membrane module.

(6) Pilot Test Protocol.

(a) Prior to initiating a pilot test, a water supplier shall:

(i) submit a test protocol to the division for review; and

(ii) receive written concurrence with the protocol from the division.

(b) The pilot test protocol shall specify the:

(i) source of water for the test;

(ii) membrane module selected for the test;

(iii) number of membrane modules to be tested for the full duration of the pilot test;

(iv) test duration, including number of clean-in-place cycles;

(v) time of year to perform the test;

(vi) objectives of the test, including operating procedures to analyze the optimal balance among:

(A) flux;

(B) productivity;

(C) backwash frequency;

(D) maintenance-clean frequency; and

(E) clean-in-place frequency;

(vii) hydraulic configuration to match the full-scale system;

(viii) continuous operational parameter monitoring for each filter run, including:

(A) elapsed run time;

(B) feedwater, filtrate, and concentrate pressure;

(C) feedwater, filtrate, and concentrate flow; and

(D) feedwater or filtrate temperature;

(ix) water quality monitoring of the feedwater, filtrate, and concentrate, including:

(A) parameters to be sampled; and

(B) frequency of sample collection;

(x) backwash process, including chemical enhancement, and data collection;

(xi) maintenance-clean process;

(xii) clean-in-place process, including:

(A) data collection; and

(B) direct integrity testing prior to returning the pilot unit to service;

(xiii) direct integrity testing process and data collection;

(xiv) indirect integrity monitoring process and data collection;

(xv) prescreening to protect membrane plugging or damage;

(xvi) pretreatment required for membrane treatment efficiency and removal of substances not removed by membrane treatment;

(xvii) post-treatment required; and

(xviii) waste disposal.

(7) Preliminary Design Report.

(a) Prior to submitting plans and specifications to the division, a water supplier proposing a new or modified membrane filtration facility shall:

(i) submit a preliminary design report to the division that establishes design parameters for a full-scale membrane filtration facility that meets the requirements of Section R309-530-8; and

(ii) receive written concurrence with the report from the division.

(b) The preliminary design report shall include:

(i) a summary of pilot test results or comparable full-scale membrane operational data addressing each of the items listed in Subsection R309-530-8(6), Pilot Test Protocol;

(ii) preliminary design specifications for membrane filtration, including:

(A) flux operating range;

(B) differential pressure operating range;

(C) recovery;

(D) productivity;

(E) membrane fouling potential based on pilot test results;

(F) membrane removal efficiency, LRV, verified during the pilot test;

(G) total membrane area per module; and

(H) number of membrane modules for the full-scale facility.

(iii) treatment objectives based on source water quality, including:

(A) potential of the treated water to produce disinfection byproducts when chlorine is added for disinfection prior to distribution; and

(B) potential of the filtration process to produce corrosive water and the need for chemical conditioning of the filtrate prior to distribution;

(iv) design capacity and its basis;

(v) mode of filtration operation -- constant flux or constant pressure;

(vi) expected useful life of selected membranes;

(vii) identification of critical components to be provided in duplicate to assure continued operation of membrane filtration in the case of a component failure;

(viii) details of direct integrity testing representative of an integral membrane filtration unit, including:

(A) description of the testing procedure;

(B) method of direct integrity testing meeting the requirements of Subsection R309-215-15(18)(b)(iii);

(C) frequency of testing meeting the requirements of Subsection R309-215-15(18)(b)(iii)(F);

(D) estimated test resolution meeting the requirements of Subsection R309-215-15(18)(b)(iii)(B);

(E) estimated test sensitivity meeting the requirements of Subsection R309-215-15(18)(b)(iii)(C);

(F) for pressure-based testing, calculations that demonstrate how the measured pressure or flow is converted to an equivalent LRV;

(G) for marker-based testing, identification of:

(I) the particulate or molecular marker; and

(II) how the marker will be discretely quantified or measured;

(H) estimated control limit meeting the requirements of Subsections R309-215-15(18)(b)(iii)(D) and (E); and

(I) for pressure-based testing, a baseline response if applicable, and how it was determined.

(ix) details of continuous indirect integrity monitoring of filtrate quality from each membrane filtration unit, including:

(A) description of the monitoring procedure;

(B) method of continuous indirect integrity monitoring meeting the requirements of Subsection R309-215-15(18)(b)(iv);

(C) frequency of monitoring meeting the requirements of Subsection R309-215-15(18)(b)(iv)(B);

(D) estimated performance-based control limit meeting the requirements of Subsection R309-215-15(18)(b)(iv)(D) or (E); and

(E) triggers for initiating a DIT meeting the requirements of Subsection R309-215-15(18)(b)(iv)(D) or (E);

(x) details of the backwashing process and chemically enhanced backwashing process for membranes requiring backwashing, including:

(A) triggers for initiating the processes;

(B) backwashing and chemically enhanced backwashing frequencies;

(C) duration of processes;

(D) water supply for backwashing;

(E) chemical supply for enhanced backwashing;

(F) list of chemicals used for chemically enhanced backwashing;

(G) treatment and disposal of backwash water and chemicals at completion of the processes;

(H) backwash-water recycling; and

(I) description of cross-connection control for the chemically enhanced backwashing process;

(xi) details of the maintenance-clean process and the clean-in-place process for membranes requiring chemical cleaning, including:

(A) triggers for initiating the process;

(B) process frequency;

(C) chemical supply for the process;

(D) list of chemicals used in the cleaning process;

(E) heating requirements for the cleaning solution;

(F) cleaning-solution recirculation;

(G) soak cycle;

(H) chemical recycling;

(I) post-CIP process for verification that the chemical concentration was adequate for the cleaning cycle;

(J) post-cleaning requirements for returning a membrane unit to filtration, including:

(I) backwashing or flushing;

(II) direct integrity testing; and

(III) disposal of chemical waste stream and rinse water; and

(K) description of cross-connection control for the process.

(8) Design Criteria.

(a) See Subsection R309-530-4(3) for source water quality data collection and submission requirements that a water supplier

shall meet no later than the date that plans and specifications are submitted to the division.

(b) Treatment Capacity of a Membrane Filtration Facility.

(i) A membrane filtration facility that provides the sole source of water to a water system shall be capable of meeting peak day demand at the lowest feedwater temperature when the largest membrane unit is out of service by providing either:

(A) one redundant membrane unit; or

(B) multiple membrane units with excess treatment capacity for each unit at maximum design flux.

(ii) A membrane filtration facility that provides the sole source of water to a noncommunity water system that can discontinue water service and shut down does not have to be capable of meeting peak day demand when the largest membrane unit is out of service.

(iii) The treatment capacity of a membrane filtration facility shall account for the:

(A) use of filtrate for backwashing and chemical cleaning;

(B) loss of concentrate; and

(C) loss of filtrate from flushing membranes after chemical cleaning.

(c) Redundancy of Critical Components.

(i) A membrane filtration facility that provides the sole source of water to a water system shall provide critical components needed to maintain continuous operation of the filtration process, as identified in the preliminary design report, in duplicate.

(ii) A membrane filtration facility that provides the sole source of water to a noncommunity water system that can discontinue water service and shut down does not have to provide critical components in duplicate.

(d) Certification of Chemicals and Components.

(i) Chemicals added during water treatment, including chemicals used to clean membrane modules and associated piping, shall be certified to meet NSF/ANSI 60.

(ii) Materials in contact with water during or following the treatment process, including membrane filtration modules and membrane repair materials, shall be certified to meet NSF/ANSI 61.

(e) Membrane Facility Housing. A membrane filtration facility shall be housed in a structure that is:

(i) weatherproof;

(ii) accessible at times that the facility is active;

(iii) protected from flooding;

(iv) drained to prevent the accumulation of water on the floor;

(v) locked and secured to prevent vandalism and unauthorized entry;

(vi) heated, cooled, and vented to protect the equipment;

(vii) dehumidified, if necessary, to protect the equipment;

(viii) lighted to allow routine operation and maintenance;

and  
(ix) sized and configured to allow operation and maintenance, including the removal and replacement of membrane equipment.

(f) Prefiltration Screening and Pretreatment. Prefiltration screening and pretreatment shall be provided based on source water quality, pilot testing, and preliminary design report recommendations.

(i) Prefiltration screening shall remove particles and debris that may damage or plug a membrane.

(ii) Chemicals used in pretreatment shall be compatible with the membrane material.

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(iii) A pretreatment process that uses a polymer upstream of a membrane shall minimize or eliminate polymer carryover to the membrane.

(iv) Equipment shall be provided for routine testing of the effectiveness of the pretreatment process.

(g) Post-treatment. Post-treatment for membrane filtration shall be provided based on pilot testing or preliminary design report recommendations.

(i) Equipment shall be provided for:

(A) routine testing of the effectiveness of the post-treatment process; and

(B) compliance monitoring required by drinking water rules.

(ii) Requirements for disinfection following membrane filtration are specified in Rules R309-200, R309-210, R309-215, and R309-520.

(h) Bypass Water Handling.

(i) Untreated surface water or groundwater under the direct influence of surface water may not bypass the membrane filtration process.

(ii) Water blended with filtrate from membrane filtration treatment prior to distribution shall meet drinking water standards.

(i) Filter-to-Waste. Each membrane unit shall be equipped to allow filtrate to be sent to waste instead of distribution.

(j) Waste Disposal. Waste generated by membrane filtration, including concentrate, filter-to-waste water, backwash water, and spent membrane-cleaning solution, shall be disposed of according to applicable regulations.

(k) Backwashing Equipment.

(i) For membranes that require backwashing, backwashing equipment shall be provided to remove accumulated foulants from the membrane surface.

(ii) Piping and pumps shall be compatible with chemicals used for chemically enhanced backwashing.

(iii) Air provided during backwashing shall be:

(A) filtered;

(B) dry; and

(C) oil free.

(iv) If water from backwashing is recycled, it shall be:

(A) treated to remove solids; and

(B) returned to the head of the treatment facility.

(v) To prevent damage to a membrane or its housing, for automatic backwashing, a backwash pump shall be equipped with:

(A) a variable frequency drive;

(B) soft start and stop capabilities; or

(C) slow opening and closing automatic valves.

(vi) A means shall be provided to measure the total flow and the rate of flow of the backwash water during the backwashing process.

(vii) Filtrate shall be:

(A) used to backwash membrane modules or membrane units; and

(B) supplied in sufficient volume to maintain rated plant capacity.

(l) Clean-in-Place and Maintenance-Clean Equipment.

(i) For membranes that require chemical cleaning, equipment shall be provided to remove accumulated foulants on the membrane surface not removed by backwashing.

(ii) Piping and pumps shall be compatible with the chemicals used for cleaning.

(iii) Equipment for chemical cleaning shall be provided with cross-connection control to isolate chemicals from the feedwater and filtrate during the cleaning process.

(iv) Secondary containment for leaks and spills from a chemical storage tank shall be provided to:

(A) protect the operator and equipment; and

(B) prevent release of chemicals to the environment.

(m) Direct Integrity Testing Equipment.

(i) Equipment shall be provided for automatic direct integrity testing of each membrane unit to:

(A) detect potential breaches; and

(B) record test results.

(ii) Equipment shall be capable of applying direct integrity testing to physical elements of the membrane unit, including:

(A) membranes;

(B) seals;

(C) potting material;

(D) valves;

(E) piping; and

(F) any other component that could result in contamination of the filtrate if the component's integrity were compromised.

(iii) Air provided for pressure-based testing shall be:

(A) filtered;

(B) dry; and

(C) oil free.

(iv) A particle used for marker-based testing shall:

(A) be certified to meet NSF/ANSI 60;

(B) be inert;

(C) be compatible with the membrane material;

(D) have an effective size of 3  $\mu\text{m}$  or less;

(E) have a neutral surface charge;

(F) be capable of being discretely measured; and

(G) be removed less efficiently than the organism targeted for treatment by membrane filtration.

(v) A molecule used for marker-based testing shall:

(A) be capable of being discretely quantified; and

(B) have an effective size equivalent to 3  $\mu\text{m}$  or less.

(n) Indirect Integrity Monitoring Equipment. Equipment shall be provided for the continuous monitoring and recording of turbidity levels of the filtrate at each membrane unit as specified in Subsection R309-530-8(8)(s).

(o) Sample Collection. A means to collect samples shall be provided for the:

(i) raw-water inlet to a membrane filtration facility;

(ii) feedwater inlet to a membrane unit;

(iii) filtrate outlet from a membrane unit;

(iv) concentrate outlet;

(v) combined-filter outlet;

(vi) finished-water outlet from a membrane filtration facility;

(vii) water supply for membrane backwashing; and

(viii) clean-in-place chemical solution.

(p) Flow Measurement. A means to measure and record the total flow and the rate of flow shall be provided for the:

(i) raw-water inlet to a membrane filtration facility;

(ii) feedwater inlet to a membrane unit;

(iii) filtrate outlet from a membrane unit;

(iv) concentrate outlet;

(v) finished-water outlet from a membrane filtration facility;

(vi) water supply for membrane backwashing; and  
(vii) recycled water.  
(q) pH and Temperature Measurement. A means to measure and record pH and temperature shall be provided for the:  
(i) raw-water inlet to a membrane filtration facility; and  
(ii) finished-water outlet from a membrane filtration facility.  
(r) Pressure Measurement. A means to measure and record pressure for a membrane filtration unit shall be provided for the:  
(i) feedwater inlet;  
(ii) concentrate outlet; and  
(iii) filtrate outlet.  
(s) Turbidity Measurement. A means to measure and record turbidity shall be provided for the:  
(i) raw-water inlet to a membrane filtration facility;  
(ii) outlet from a pretreatment process;  
(iii) filtrate outlet from a membrane unit;  
(iv) combined-filter outlet;  
(v) outlet from any other process downstream of membrane filtration that may increase turbidity; and  
(vi) clearwell outlet as required by Subsection R309-215-9(1)(a).  
(t) Cross-Connection Control. Cross-connection control shall be provided to prevent contamination of feedwater and filtrate from cleaning chemicals and waste disposal.  
(u) System Controls.  
(i) System controls for a membrane filtration facility shall be:  
(A) located above ground;  
(B) protected from flooding; and  
(C) capable of automatically shutting down the membrane filtration process to prevent damage to the membranes or distribution of inadequately treated drinking water.  
(ii) Automated system controls shall be provided with:  
(A) spare input/output cards of each type;  
(B) a backup power supply; and  
(C) surge protection.  
(v) Alarms. A membrane filtration facility shall include an alarm system that immediately notifies a water system operator when:  
(i) feedwater turbidity exceeds the maximum design level;  
(ii) filtrate turbidity exceeds the level not to be exceeded at any time as specified in Subsection R309-200-5(5)(a)(ii);  
(iii) a direct or indirect integrity test exceeds a control limit;  
(iv) the maximum flow rate setting corresponding to the maximum design flux level is exceeded;  
(v) TMP exceeds the maximum design level; and  
(vi) a pump driving the filtration, backwashing, or chemical cleaning process fails.  
(w) Control of Remote or Unoccupied Membrane Filtration Facility.  
(i) A remote or unoccupied membrane filtration facility shall be provided with alarms, communication systems, and the ability to automatically shut down processes to prevent the distribution of inadequately treated drinking water.  
(ii) In addition to the items listed in Subsection R309-530-8(8)(v), a remote or unoccupied membrane filtration facility shall include an alarm system that immediately notifies a water system operator of:  
(A) failure of a critical component identified in the preliminary design report;

(B) failure of a programmable logic controller;  
(C) membrane unit shutdown;  
(D) clearwell water level above the maximum or below the minimum;  
(E) chlorine residual level above the maximum or below the minimum;  
(F) low level in a chemical storage tank;  
(G) loss of electrical power;  
(H) unauthorized entry; and  
(I) low interior temperature of a treatment building.  
(9) Facility Startup.  
(a) A membrane filtration facility shall be equipped to allow for disposal of feedwater and filtrate during the startup process.  
(b) Prior to installing membrane modules:  
(i) piping shall be flushed to remove dirt and construction debris;  
(ii) chemical-feed equipment shall be tested to assure:  
(A) proper operation; and  
(B) delivery of chemicals at proper dosages;  
(iii) mechanical equipment shall be tested for leaks and proper operation;  
(iv) instrumentation shall be calibrated and tested for proper operation;  
(v) the control system shall be verified for:  
(A) digital and analog control inputs and outputs;  
(B) instrumentation alarm limits;  
(C) programming logic;  
(D) instrumentation loops; and  
(E) operational sequences.  
(c) After installation, a membrane module shall be:  
(i) flushed to waste to remove the storage solution; and  
(ii) tested to assure smooth startup and shutdown.  
(d) A water supplier shall comply with applicable disposal requirements for waste flushed from newly installed piping, tanks, equipment, and membranes at a membrane filtration facility.  
(e) Prior to use of a membrane filtration facility to provide drinking water:  
(i) pipes, tanks, and associated equipment shall be disinfected and flushed according to AWWA procedures;  
(ii) membrane modules shall be disinfected and flushed according to instructions from the membrane manufacturer taking into consideration the chlorine tolerance of the membranes;  
(iii) a facility shall be operated continuously for a trial period to verify design parameters;  
(iv) treated water quality shall be sampled and demonstrate compliance with drinking water standards;  
(v) final, operational control limits for direct integrity testing shall be established;  
(vi) a DIT shall be done per Subsection R309-215-15(18)(b)(iii), and the result may not exceed the established upper control limit; and  
(vii) a water supplier shall obtain an operating permit as required by Section R309-500-9.  
(f) A water supplier shall assure that adequate operator training and instruction are provided by the supplier of the membrane units on each aspect of startup and operation of a membrane filtration facility.  
(10) Operating Permit -- Additional Information. In addition to meeting the requirements for an operating permit in Section R309-500-9, a water supplier requesting an operating permit for a membrane filtration facility treating surface water or

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groundwater under the direct influence of surface water shall provide to the division:

(a) a statement acknowledging that the facility startup requirements of Subsection R309-530-8(9) have been completed;

(b) normalized operating flux range;

(c) normalized operating flux per membrane unit;

(d) maximum operating differential pressure for a membrane unit;

(e) membrane unit backwashing frequency;

(f) membrane unit clean-in-place frequency;

(g) minimum, verified, operational, direct integrity testing resolution;

(h) maximum, verified, operational, direct integrity testing sensitivity;

(i) verified, operational, direct integrity testing control limit; and

(j) verified, indirect integrity monitoring performance-based upper control limit.

(11) Operational Membrane Integrity Testing and Monitoring and Reporting.

(a) Membrane Integrity Testing and Monitoring.

(i) Direct Integrity Testing.

(A) A water system using membrane filtration to treat surface water or groundwater under the direct influence of surface water to meet the requirements of Section R309-530-8 shall comply with the direct integrity testing requirements of Subsection R309-215-15(18)(b)(iii).

(B) A DIT shall be done on a membrane unit following:

(I) a clean-in-place process for a membrane unit; and

(II) repair of a membrane unit.

(C) A membrane unit that has been chemically cleaned in place or repaired may not be returned to service unless the result of a DIT of the membrane unit is at or below the established control limit.

(ii) Indirect Integrity Monitoring. A water system using membrane filtration to treat surface water or groundwater under the direct influence of surface water to meet the requirements of Section R309-530-8 shall comply with the indirect integrity monitoring requirements of Subsection R309-215-15(18)(b)(iv).

(b) Reporting Requirements for Membrane Integrity Testing. A water system using membrane filtration to treat surface water or groundwater under the direct influence of surface water to meet the requirements of Section R309-530-8 shall comply with the reporting requirements for direct integrity testing and indirect integrity monitoring of Subsection R309-215-15(20)(d)(x)(B).

(12) Membrane Replacement.

(a) A water supplier shall obtain plan approval and an operating permit for replacement of:

(i) an approved membrane module with a different module; and

(ii) an approved number of modules with a greater number of the same modules.

(b) Replacement of a membrane module with exactly the same product is considered ongoing operation and maintenance and is not a public drinking water project that requires plan approval or an operating permit.

(13) Calibration of Instrumentation. Instrumentation used to verify operation of a treatment process or determine compliance with monitoring and reporting requirements for a drinking water rule, shall be:

(a) calibrated monthly;

(b) tested for accuracy monthly; and

(c) maintained according to manufacturer's recommendations.

**R309-530-9. New Treatment Processes or Equipment.**

The policy of the Board is to encourage, rather than to obstruct, the development of new methods and equipment for the treatment of water. Nevertheless, any new processes or equipment must have been thoroughly tested in full-scale, comparable installations, before approval of plans can be issued. [~~Refer to EPA's Environmental Technology Verification Program (ETV).~~]

No new treatment process will be approved for use in Utah unless the designer or supplier can present evidence satisfactory to the Director that the process will ~~insure~~ ensure the delivery of water of safe, sanitary quality, without imposing undue problems of supervision, operation, ~~and~~ or control.

The Director shall establish the turbidity limit for 95% of turbidity measurements and the maximum turbidity limit which shall not be exceeded. The plant effluent shall meet the requirements of Subsection R309-200-5(5)(a)(ii).

**KEY: drinking water, direct filtration, slow sand filtration, membrane technology**

**Date of Last Change: 2022[August 28, 2013]**

**Notice of Continuation: March 12, 2020**

**Authorizing, and Implemented or Interpreted Law: 19-4-104**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R398-20	Filing ID 54091

**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Family Health and Preparedness, Children with Special Health Care Needs	
<b>Room no.:</b>	4453	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 144610	
<b>City, state and zip:</b>	Salt Lake City, UT 84111-4610	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Joyce McStotts	801-273-2956	jmcstotts@utah.gov

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

**General Information**

<b>2. Rule or section catchline:</b>
R398-20. Early Intervention
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
The reason for the changes are to update this rule to reflect the new electronic billing and payment systems, clarify terms, and update formatting to meet Executive Order No. 2021-12 and adhere to the deadline date of January 1, 2022.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
The changes update new electronic billing and payment system terminology, from family fee determination form, provide clarification, and update formatting to meet Executive Order No. 2021-12 and adhere to the deadline date of January 1, 2022.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
No anticipated cost to the state budget as there is no requirement changes -- just an update to the new electronic billing and payment system terminology, clarification of terms, and updates to formatting to meet Executive Order No. 2021-12.
<b>B) Local governments:</b>
No anticipated cost to local governments as there is no requirement changes -- just an update to the new electronic billing and payment system terminology, clarification of terms, and updates to formatting to meet Executive Order No. 2021-12.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
No anticipated cost to small businesses as there is no requirement changes -- just an update to the new electronic billing and payment system terminology, clarification of terms, and updates to formatting to meet Executive Order No. 2021-12.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
No anticipated cost to non-small businesses as there is no requirement changes -- just an update to the new electronic billing and payment system terminology, clarification of terms, and updates to formatting to meet Executive Order No. 2021-12.

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

No anticipated cost to persons other than small businesses as there is no requirement changes -- just an update to the new electronic billing and payment system terminology, clarification of terms, and updates to formatting to meet Executive Order No. 2021-12.

**F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):**

No anticipated compliance costs for affected persons as there is no requirement changes -- just an update to the new electronic billing and payment system terminology, clarification of terms, and updates to formatting to meet Executive Order No. 2021-12.

**G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):**

This rule amendment updates new electronic billing and payment system terminology, from family fee determination form, provide clarification, and update formatting to meet Executive Order No. 2021-12 requirements. There is no fiscal impact on business. Nathan Checketts, Executive Director

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

**Regulatory Impact Table**

Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

NOTICES OF PROPOSED RULES

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**  
 The Executive Director of the Department of Health, Nathan Checketts, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

34 CFR 303.521	Section 26-5-1	
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	01/03/2022
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<b>10. This rule change MAY become effective on:</b>	01/10/2022
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Nathan Checketts, Executive Director	<b>Date:</b>	11/01/2021
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**R398. Health, Family Health and Preparedness, Children with Special Health Care Needs.**

**R398-20. Early Intervention.**

**R398-20-1. Authority and Purpose.**

- (1) This rule is authorized by 34 CFR 303.521 and Section 26-1-5.
- (2) This rule implements a family fee ~~the parent cost participation fee~~ for the Baby Watch Early Intervention program under Part C of the Individuals with Disabilities Education Act (IDEA). ~~This~~ The family fee was mandated by the Utah State

Legislature in the 2003 General Session, and modified in the 2013 General Session.

**R398-20-2. Definitions.**

- (1) "Department" means the Utah Department of Health, Baby Watch Early Intervention Program.
- (2) "~~Provider~~ Early Intervention (EI) Program" means a local EI Program ~~direct service provider~~ with whom the Department contracts to provide Part C services.

**R398-20-3. Fees.**

- (1) The parent or legal guardian of an eligible child shall pay a ~~monthly cost participation~~ family fee if their child is enrolled in ~~the~~ a Baby Watch EI Program ~~early intervention program~~ and receives fee eligible services. The ~~monthly~~ family fee is applicable for any month in which at least one billable service is:
  - (a) provided to the child; or
  - (b) ~~[scheduled and not canceled within required time frames]~~ not cancelled by the family by 9 a.m. the morning of the scheduled service.
- (2) ~~[Fees]~~ The family shall be charged based on a sliding fee schedule established by the Department annually. The sliding fee schedule shall begin at 185% of the most recently published federal poverty guidelines.
- (3) The maximum family fee on the sliding fee schedule shall be \$200 per month.
- (4) The family ~~cost participation~~ fee shall not be charged if the child or the child's family receives benefits under any of the following programs:
  - (a) Medicaid;
  - (b) Temporary Assistance to Needy Families;
  - (c) Family Employment Plan - Cash Assistance;
  - (d) Women Infants and Young Children;
  - (e) Early Head Start based on income;
  - (f) Child is a ward of the state;
  - (~~f~~) (g) Primary Care Network; or
  - (~~g~~) (h) Children's Health Insurance Program.

**R398-20-4. Income Reporting and Fee Determination.**

- (1) Each child's parent or legal guardian shall annually report the family income using the ~~[Department's Family Fee Determination Form]~~ electronic Baby Watch Billing and Payment System to determine ~~the~~ their monthly family fee.
- (2) ~~[Upon request, the]~~ The parent or legal guardian must ~~[provide]~~ upload [a copy of the] their most recent federal income tax filing to the Billing and Payment System or provide to the Department ~~[and its early intervention providers]~~ to verify family income as reported by the child's parent or legal guardian. If the federal income tax filing is unavailable, the parent or legal guardian may submit the prior three months' check stubs to extrapolate annual income.
- (3) Completion of ~~[the Family Fee Determination Form]~~ the Baby Watch Billing and Payment System registration is voluntary. If a child's parent or legal guardian chooses not to complete the ~~[Family Fee Determination Form]~~ Billing and Payment System registration, the family ~~[must pay the maximum level on the fee schedule]~~ will be required to pay a monthly late fee, established by Baby Watch and defined within the Baby Watch System of Payment and Fees Policy.

**R398-20-5. Hardship, Extenuating Circumstances.**

(1) An eligible child shall not be denied service because of a family's inability to pay. The provider may waive all or part of the fee if there are extenuating family circumstances that affect a family's ability to pay, such as long-term hospitalization of a family member, casualty loss, moving expense, or other unusual expenses.

(2) If a family is able to pay, but chooses not to pay, the [Department may instruct the local early intervention]EI [p]Program [to]may withhold fee eligible services.

**R398-20-6. Services Not Subject to Fees.**

(1) In accordance with [F]federal IDEA regulation, [providers]EI Programs may not charge a family fee for the following IDEA activities and services:

- (a) implementation of child find, such as child developmental screening, or public awareness activities;
- (b) evaluation and assessment;
- (c) service coordination;
- (d) activities to assist a child and the family to receive the authorized services;
- (e) activities related to the development, review and evaluation of the Individualized Family Service Plan;
- (f) activities related to child and family rights, including the administrative complaint process and mediation; or
- (g) specialized services related to sensory loss provided through the Utah Schools for the Deaf and the Blind Parent Infant Programs, or Deaf Blind services.

**KEY: early intervention, education, disabilities**  
**Date of Last Change: 2022[January 28, 2014]**  
**Notice of Continuation: July 2, 2018**  
**Authorizing, and Implemented or Interpreted Law: 26-10-2**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R432-200	Filing ID 54081

**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Family Health and Preparedness, Licensing	
<b>Room no.:</b>	4th Floor	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 144103	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4103	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Kristi Grimes	385-214-9187	kristigrimes@utah.gov

Joel Hoffman	801-273-2804	jhoffman@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R432-200. Small Health Care Facility (Four to Sixteen Beds)
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
The purpose of this amendment is to comply with the settlement agreement with the Disability Law Center (DLC). The DLC filed a lawsuit against the Department of Health (Department), regarding Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID's), several years ago. These changes satisfy the provisions of the settlement agreement for individuals residing in ICF/IID's.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
This amendment ensures ICF/IID's employees receive specialized training regarding the care of children and youth with intellectual disabilities when there are individuals under 22 years of age in the facility. In addition, no individuals under the age of 22 years old shall live in the same room with more than one individual; or with individuals over the age of 22 years, unless they are members of the individual's immediate family. Outdated language and formatting issues were also modified in this amendment.
The Health Facility Committee reviewed and approved this rule amendment on 05/12/2021.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The state government small health care facility survey process was thoroughly reviewed. This change will not impact the current process for licensure and re-licensure surveys. No change to the state budget is expected.
<b>B) Local governments:</b>
Local government city business licensing requirements were considered. This proposed rule amendment should not impact local governments' revenues or expenditures. Small health care facilities are regulated by the state health department and not local governments. There will

be no change in local business licensing or any other item(s) with which local government is involved.

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

After conducting a thorough analysis, it was determined that this rule amendment should not impact costs for small business Small Health Care Facilities. There are 15 ICF/IID's, as determined by the Department's licensing data system. (North American Industry Classification System (NAICS) codes used – Residential Mental Health Facilities 6232, reports 35 small businesses). None of the Department-licensed ICF/IID's are listed as a small business.

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

After conducting a thorough analysis, it was determined that this rule amendment should not impact costs for non-small business Small Health Care Facilities. There are 15 ICF/IID's, as determined by the Department's licensing data system. North American Industry Classification System (NAICS) codes used – Residential Mental Health Facilities 6232, reports 33 non-small businesses. Six of the Department-licensed ICF/IID's are listed as non-small businesses. Employee training is currently provided in these facilities and the additional of specialized training to the facilities that serve individuals under 22 years of age, would be negligible. In addition, no cost would be associated with room placement requirements for individuals under 22 years of age.

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

After conducting a thorough analysis, it was determined that this rule amendment will not result in a fiscal impact to affected persons because this amendment adds employee training requirements and room placement requirements for individuals residing in an ICF/IID and therefore, would not add cost for persons, businesses, or local government entities.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

After conducting a thorough analysis, it was determined that this rule amendment will not result in a fiscal impact to affected persons because this amendment adds employee training requirements and room placement requirements for individuals residing in an ICF/IID and therefore, would not add cost for persons, businesses, or local government entities.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this rule amendment should not impact costs for either small business or non-small business. Employee training is currently provided in these facilities and the additional of specialized training to the facilities that serve individuals under 22 years of age, would be negligible. In addition, no cost would be associated with room placement requirements for individuals under 22 years of age. Nate Checketts, Executive Director

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Health, Nate Checketts, has reviewed and approved this fiscal analysis.

**Citation Information**

<b>7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Title 26, Chapter 21		

**Public Notice Information**

<b>9. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
<b>A) Comments will be accepted until:</b>	01/03/2022

<b>10. This rule change MAY become effective on:</b>	01/10/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Nate Checketts, Executive Director	<b>Date:</b>	11/02/2021
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**R432. Health, Family Health and Preparedness, Licensing.  
R432-200. Small Health Care Facility\_ [(Four to Sixteen Beds)].  
R432-200-4. Definitions.**

- (1) See common definitions in Section R432-1-3.
- (2) ~~[Special Definitions:~~

~~(a) "Levels of Care" mean the range of programs and the physical facilities [in which] where they may be offered according to these rules.~~

~~(b) "Level I" refers to a skilled nursing care facility that provides at least 24-hour care and licensed nursing services to persons who are [non-mobile and] non-ambulatory. [All] Level I facilities shall conform to the requirements in [the Utah Department of Health, Nursing Care Facility rules] Rule R432-150. [A Level I facility with a bed capacity of 16 beds or less, may request a variance from some construction standards for nursing care facilities, if the health, safety, and welfare of residents can be preserved.] Level I facilities may include:~~

~~(i) a Skilled Nursing Facility shall maintain and operate 24-hour skilled nursing services for the care and treatment of chronically ill or convalescent residents whose primary need is [the availability of] skilled nursing care or related services on an extended basis[-]; and~~

~~(ii) an Intermediate Care Facility shall provide 24-hour [in resident] care to residents who need licensed nursing supervision and supportive care[-]; and who do not require continuous nursing care.~~

~~(e) "Level II" refers to a facility that provides [at least] 24-hour care[-, 24-hour staff coverage,] and licensed therapy or nursing care [(based on program requirements)] to 4-16 persons who are [non-mobile and] non-ambulatory. Level II facilities may include:~~

~~(i) a Health Care Nursery shall provide [full-time supervision and] 24-hour care to children under six years of age who do not require continuous nursing care. The facility shall provide [at least] the following:~~

- ~~(A) i) [Twenty-four] 24-hour care[- and/or staff availability];~~
- ~~(B) ii) [Provision for] medical coverage;~~
- ~~(C) iii) [Provision for] dietary services; and~~
- ~~(D) iv) [Provision for] licensed therapies, as required[-];~~

~~(ii) an Intermediate Care Facility for [the Mentally Retarded] Individuals with Intellectual Disabilities shall provide 24-hour supervisory care to [developmentally disabled and mentally retarded] individuals with intellectual or developmental disabilities, [(note: An ICF/MR facility may be categorized as a Level IV facility if no resident is under therapy that utilizes chemical or physical restraints which may render the resident incapable of self-preservation in an emergency),] who need supervision in a coordinated and integrated program of health, habilitative and supportive services, but who do not require continuous nursing care. A facility may be categorized as a Level IV facility if no resident receives therapy that utilizes chemical or physical restraints that render the resident incapable of self-preservation in an emergency. The facility shall[-, except as indicated in the supplement,] provide the following:~~

- ~~(A) i) [Twenty-four] 24-hour care[- and staff availability];~~
- ~~(B) ii) [Provision for] medical coverage;~~
- ~~(C) iii) [Provision for] dietary services; and~~
- ~~(D) iv) [Provision for] licensed therapies, as required[-];~~

~~(iii) a Home for the Aging shall provide group housing, supervision, social support, personal care, therapy[-] and some nursing care to elderly persons who do not need intermediate or skilled nursing care. The facility shall provide at least the following:~~

- ~~(A) i) [Twenty-four] 24-hour [staff availability] care;~~
- ~~(B) ii) [Provision for] medical coverage;~~
- ~~(C) iii) [Provision for] dietary services for at least three meals a day; and~~

~~(D) iv) [Provision for] licensed therapies, as [necessary] required; and~~

~~(iv) d) a Social Rehabilitation Facility shall provide group housing, personal care, social rehabilitation[-] and treatment for alcoholism, drug abuse[-] or mental problems to persons who do not require intermediate or skilled nursing care. [(Note: i) If each resident in the program is certified by a physician or [QMRP] Qualified Intellectual Disabilities Professional, as ambulatory and in an alcohol or drug abuse rehabilitation program designed to lead to independent living, then the facility may be categorized as a Level IV facility.] The facility shall provide the following:~~

- ~~(A) i) [Twenty-four] 24-hour [staff availability or program] care;~~
- ~~(B) ii) [Provision for] medical coverage;~~
- ~~(C) iii) [Provision for] dietary services for [at least] three meals a day; and~~

~~(D) iv) [Provision for] licensed therapies, as [necessary] required.~~

~~(d) "Level III" refers to a facility that provides [at least] 24-hour staff coverage and licensed therapy [(based on program requirements)] to 4-16 persons who are ambulatory and [mobile but who] are under chemical or physical restraints. Level III facilities may include:~~

~~(i) a Mental Health Facility shall provide 24[-]-hour care to persons with mental illness who require medical and psychiatric supervision, including diagnosis and treatment. The facility shall provide at least the following:~~

(A)i ~~Twenty-four~~ 24-hour ~~staff coverage~~ care;  
 (B)ii ~~Provision for~~ medical and psychiatric supervision;  
 (C)iii ~~Provision for~~ dietary services; and  
 (D)iv ~~Provision for~~ licensed therapies, as ~~necessary~~ required; and

(ii)b a Youth Correction Center shall provide 24-hour supervision, care, training, treatment~~s~~ and therapy to persons who by court order may be restricted in their daily activities, and under security control that includes lock-up. The facility shall provide at least the following:

(A)i ~~Twenty-four~~ 24-hour ~~staff coverage~~ care;  
 (B)ii ~~Provision for~~ medical and psychiatric supervision;  
 (C)iii ~~Provision for~~ dietary services; and  
 (D)iv ~~Provision for~~ licensed therapies, as ~~necessary~~ required.

(e)6 "Level IV" refers to a facility that provides specialized program and support care to 4-16 persons who are ambulatory ~~and mobile, who~~ and require programs of care and more supervision than provided in a residential care facility. Level IV facilities may include:

(i)a ~~an Intermediate Care Facility for the Mentally Retarded~~ Individuals with Intellectual Disabilities. ~~All mentally retarded residents~~ Individuals with intellectual disabilities in a Level IV facility must be ambulatory to qualify for Medicaid ~~or Medicare reimbursement~~ and comply with;

(ii)b Mental Health Facility ~~(See, Subsection R432-200-4(5)(a) 4(2)(d)(i), Level III);~~

(iii)c Home for the Aging ~~(See, Subsection R432-200-4(4)(c) 4(2)(c)(iii), Level II); and~~

(iv)d Social Rehabilitation Facility ~~(See, Subsection R432-200-4(4)(d) 4(2)(e)(iv), Level II).~~

**R432-200-7. Administration and Organization.**

(1) ~~Organization.~~  
~~Each facility shall be~~ operated by a licensee licensed to operate.

(2) ~~Duties and Responsibilities.~~  
~~The licensee shall be responsible for compliance with~~ Utah laws and licensure requirements and for the organization, management, operation~~s~~ and control of the facility. ~~Responsibilities shall include~~ at least the following:

(a) ~~C~~ comply with ~~all~~ federal, state and local laws, rules~~s~~ and regulations;

(b) ~~A~~ adopt and ~~institute~~ implement by-laws, policies and procedures relative to the general operation of the facility, including the health care of the residents and the protection of their rights;

(c) ~~A~~ adopt a policy that states the facility will not discriminate on the basis of race, color, sex, religion, ancestry or national origin in accordance with Section 13-7-1;

(d) ~~A~~ appoint, in writing, a qualified administrator to be responsible for the implementation of facility by-laws and policies and procedures, and for the overall management of the facility;

(e) ~~S~~ secure and update contracts for professional and other services;

(f) ~~R~~ receive and respond ~~as appropriate~~ to ~~the~~ inspection reports issued by the Department; and

(g) ~~N~~ notify the Department, in writing, at least 30 days prior to, but not later than five days after, a change of administrator. ~~The notice shall include the name of the new administrator and the effective date of the change.~~

(3) ~~Administrator.~~ The administrator shall oversee the daily operation of the facility.

(a) ~~Administrator's Appointment.~~  
~~Each facility shall appoint, in writing, an~~ The administrator shall be professionally licensed by the Utah Department of Commerce in a health care field.

(b) A copy of the administrator's license or credentials shall be posted ~~alongside~~ with the facility~~s~~ license in a place readily visible to the public.

(c) The administrator shall act as the administrator of no more than four small health care facilities ~~(for a maximum of 60 beds)~~ at any one time. ~~The maximum number of beds is limited to 60.~~

(d) The administrator shall have sufficient freedom from other responsibilities and shall be on the premises of the facility a sufficient number of hours in the business day ~~(at least four hours per week for each six residents)~~ and as necessary to properly manage the facility and respond to ~~appropriate~~ requests by the Department.

(e) The administrator shall designate, in writing, the name and title of the person who shall act as administrator in ~~his~~ their absence. This person shall have sufficient power, authority~~s~~ and freedom to act in the best interests of resident safety and well-being. It is not the intent of this paragraph to permit an unlicensed de facto administrator to supplant or replace the designated, licensed administrator.

(4) ~~Administrator Responsibilities.~~  
~~The administrator shall have the following responsibilities:~~

(a) ~~C~~ complete, submit and file ~~all~~ records and reports required by the Department;

(b) ~~A~~ act as a liaison ~~among~~ between the licensee ~~medical and nursing staff, and other supervisory~~ and other staff of the facility, ~~as appropriate~~ and respond to recommendations of the quality assurance committee;

(c) ~~A~~ assure that employees are oriented to their job functions and receive appropriate in-service training;

(d) ~~H~~ implement policies and procedures for the operation of the facility;

(e) ~~H~~ hire and maintain the required number of ~~licensed and non-licensed~~ staff as specified in these rules to meet the needs of residents;

(f) ~~M~~ maintain facility staffing records for 12 months;

(g) ~~S~~ secure and update contracts required for professional and other services not provided directly by the facility;

(h) ~~V~~ verify ~~all~~ required licenses and permits of staff and consultants at the time of hire and effective date of contract; and

(i) ~~R~~ review ~~all~~ incident and accident reports and take appropriate action.

(5) ~~Medical Director.~~  
~~The administrator of each facility shall retain~~ by formal agreement, a licensed physician to serve as medical director or advisory physician on a consulting basis according to ~~the~~ resident~~s~~ and facility~~s~~ needs.

(6) ~~Medical Director Responsibilities.~~  
~~The medical director or advisory physician shall have responsibility for~~ at least the following:

(a) ~~Review or~~ develop written resident-care policies and procedures including the delineation of responsibilities of attending physicians;

(b) ~~R~~ review resident-care policies and procedures annually with the administrator;

(c) ~~S~~ serve as liaison between the resident's physician and the administrator;

(d) ~~S~~ serve as a member of the quality assurance committee~~(see R432-200-10)~~;

(e) ~~[R]~~review incident and accident reports at the request of the administrator to identify health hazards to residents and employees; and

(f) ~~[A]~~act as consultant to the health services supervisor in matters relating to resident-care policies.

(7) ~~[Staff and Personnel.~~

~~(a) Organization.]~~

The administrator shall employ qualified personnel who are able and competent to perform their respective duties, services~~]~~ and functions.

~~(b)a) [Qualifications and Orientation.~~

~~(i)]~~The administrator shall develop job descriptions including job title, job summary, responsibilities, qualifications, required skills and licenses, and physical requirements for each position or employee.

~~(ii)b) The administrator shall conduct and document [P]periodic employee performance evaluations[~~shall be documented~~].~~

~~(iii)c) [All]The administrator shall ensure that personnel [shall]have access to the facility's policies and procedures manuals, resident-[-]care policies, therapeutic manuals~~]~~ and other information necessary to effectively perform their duties and carry out their responsibilities.~~

~~(8) [Health Surveillance.~~

~~(a)]~~The facility shall establish a policy and procedure for the health screening of ~~[all]~~facility personnel ~~[which conforms]to comply with [the provisions of]Subsection R432-150-10(4).~~

~~(b)9) [All-d]Dietary and other staff who handle food shall obtain a Food Handler's Permit from the local health department.~~

~~(9)10) [In-service Training.~~

~~The [re] facility shall [be planned and]provide documented in-service training for [all facility personnel]employees. The following topics shall be addressed annually:~~

(a) ~~[F]~~fire prevention~~[(see R432-200-11)];~~

(b) ~~[A]~~accident prevention and safety procedures including instruction in the following:

(i) ~~[B]~~body mechanics for ~~[all-]employees required to lift, turn, position~~]~~ or [ambulate-]transfer residents;~~

(ii) ~~[P]~~proper safety precautions when floors are wet or ~~[waxed]are being cleaned; and~~

(iii) ~~[S]~~safety precautions and procedures for heat lamps, hot water bottles, bathing and showering temperatures;

(c) ~~[R]~~review and drill of emergency procedures and evacuation plan~~[(See R432-200-11)];~~

(d) ~~[P]~~prevention and control of infections as outlined in Section [(see)R432-150-25[3)];

(e) ~~[C]~~confidentiality of resident information;

(f) ~~[R]~~resident~~s']~~ rights;

(g) ~~[B]~~behavior ~~[M]management and proper use and documentation of restraints;~~

(h) ~~[O]~~oral hygiene and first aid;~~[and]~~

(i) ~~[F]~~training in the principles of Cardiopulmonary Resuscitation ~~[(CPR)]~~for licensed nursing personnel and others as appropriate;

(j) ~~[F]~~training in habilitative care; and

(k) ~~[R]~~reporting abuse, neglect and exploitation.

(11) Intermediate Care Facilities for Individuals with Intellectual Disabilities shall ensure that employees receive specialized training regarding the care of children and youth with intellectual disabilities, when there are individuals under 22 years of age in the facility.

#### **R432-200-12. Resident~~s']~~ Rights.**

(1) Resident~~s']~~ rights ~~[P]policies and [P]procedures shall include~~]~~:~~

(a) ~~[A-]a committee that shall be appointed to update policy, evaluate~~]~~ and act on resident~~s']~~ rights complaints~~]~~;~~

(b) ~~[W]written [residents'-]rights that shall be [established, ]posted in areas accessible to residents~~]~~ and made available to the resident, ~~[or-]guardian~~]~~ or next of kin~~]~~; and~~~~

(c) ~~[These-]they shall be available to the public and the Department upon request.~~

(2) Each resident admitted to the facility shall have the following rights:

(a) ~~[F]~~to be fully informed, as evidenced by ~~[the resident's ]written acknowledg[e]ment prior to or at the time of admission and during stay, of resident~~s']~~ rights and of [all-]rules governing resident conduct;~~

(b) ~~[F]~~to be fully informed, prior to or at the time of admission and during stay, of services available in the facility and of related charges, including any charges for services not covered by the facility's basic per diem rate or not covered under Titles XVIII or XIX of the Social Security Act;

(c) ~~[F]~~to be fully informed of ~~[his-]the resident's medical condition[, by a physician, unless medically contraindicated and documented in the resident's health record]~~ by the attending physician;

(d) ~~[F]~~to be afforded the opportunity to participate in the planning of ~~[his-]medical treatment and to refuse to participate in experimental research;~~

(e) ~~[F]~~to refuse treatment to the extent permitted by law and to be informed of the medical consequences of such refusal;

(f) ~~[F]~~to be ~~[transferred or discharged only for medical reasons, or his welfare or that of other residents, or for nonpayment for his stay, and to be-]given reasonable advance notice [of discharge-]to ensure orderly transfer or discharge;[~~such actions shall be documented in his health record;~~~~

(g) ~~[F]~~to be encouraged and assisted throughout the period of stay to exercise rights as a resident and as a citizen, and ~~[to this end-]to voice grievances and recommend changes in policies and services to facility staff or outside representatives of [his-]choice, and to be free from [restraint-]interference, coercion, discrimination~~]~~ or reprisal;~~

(h) ~~[F]~~to manage ~~[his-]personal financial affairs, or to be given at least quarterly or upon request, an accounting of financial transactions made on [his-]the resident behalf should the facility accept [his-]written delegation of this responsibility;~~

(i) ~~[F]~~to be free from mental and physical abuse and to be free from chemical and ~~[(except in emergencies)-]physical restraints except as authorized in writing by a physician for a specified [and limited-]period of time, or when necessary to protect the resident from injury to [himself-]themselves or to others[~~(see R432-150-12)];~~~~

(j) ~~[F]~~to be assured confidential treatment of ~~[his-]personal and medical records and to approve or refuse the[re] release to any individual outside the facility, except in the case of [his-]transfer to another health facility, or as required by law or third party payment contract;~~

(k) ~~[F]~~to be treated with consideration, respect and full recognition of ~~[his-]dignity and individuality, including privacy in treatment and in care for personal needs;~~

(l) ~~[N]~~not to be required to perform services for the facility that are not included for therapeutic purposes in ~~[his-]the plan of care;~~

(m) ~~[F]~~to associate and communicate privately with ~~[persons of his choice]others, and to send and receive personal mail unopened;~~

NOTICES OF PROPOSED RULES

(n) ~~[F]~~to meet with and participate in activities of social, religious~~[s]~~ and community groups~~[at his discretion]~~;

(o) ~~[F]~~to retain and use personal clothing and possessions as space permits, unless ~~[to do so]~~ it would infringe upon the rights of other residents;

(p) ~~[H]~~if married, to be assured privacy for visits by ~~[his]~~ a spouse, ~~[and]~~ if both are residents in the facility, to be permitted to share a room;

(q) ~~[F]~~to have daily visiting hours established;

(r) ~~[F]~~to have members of the clergy admitted at the request of the resident or person responsible at any time;

(s) ~~[F]~~to allow relatives or responsible persons ~~[responsible residents]~~ to visit ~~[residents]~~ at any time;

(t) ~~[F]~~to be allowed privacy for visits with family, friends, clergy, social workers or for professional or business purposes;

(u) ~~[F]~~to have reasonable access to telephones ~~[both]~~ to make and receive confidential calls~~[s]~~; and

(v) ~~[F]~~to wear appropriate personal clothing and religious or other symbolic items as long as they do not interfere with diagnostic procedures or treatment.

(3) ~~[Safeguards for Residents' Monies and Valuables]~~ Each facility ~~[to whom a resident's money or valuables have been entrusted according to R432-200-12(2)(h), above]~~ that manages resident money shall comply with the following:

(a) ~~[No licensee shall use residents' monies or valuables as his own or mingle them with his own.]~~ the facility shall not mingle or use resident funds for facility purposes;

(i) ~~[R]~~ resident~~[s]~~ monies and valuables shall be separated and ~~[intact and]~~ free from any liability that the licensee incurs in the use of ~~[his own or]~~ the institution's funds and valuables~~[s]~~; and

(ii) ~~[E]~~ each licensee shall maintain adequate safeguards and accurate records of resident~~[s]~~ monies and valuables entrusted to the licensee~~[s care]~~;

(b) ~~[R]~~ records of resident~~[s]~~ monies ~~[which]~~ that are maintained as a drawing account shall include a control account for ~~[all]~~ receipts and expenditures, an account for each resident and supporting vouchers filed in chronological order. Each account shall be kept current with columns for debits, credits~~[s]~~ and balance~~[s]~~;

(c) ~~[R]~~ records of resident~~[s]~~ monies and other valuables entrusted to the licensee for safekeeping shall include a copy of the receipt furnished to the resident or to the person responsible for the resident~~[s]~~;

(d) ~~[R]~~ resident~~[s]~~ monies not kept in the facility shall be deposited within five days of receipt of such funds in an interest-bearing account in a local bank authorized to do business in Utah~~[s]~~. ~~[t]~~ The deposits ~~[of which must]~~ shall be insured~~[s]~~;

(e) ~~[A]~~ a person, firm, partnership, association or corporation ~~[which]~~ that is licensed to operate more than one health facility shall maintain a separate account for each such facility and shall not commingle resident funds from one facility with another~~[s]~~;

(f) ~~[W]~~ when the amount of resident~~[s]~~ money entrusted to a licensee exceeds \$150, ~~[all money in]~~ excess ~~[of \$150]~~ funds shall be deposited in an interest-bearing account ~~[as specified in R432-200-12(3)(c) and (d) above]~~;

(g) ~~[U]~~ upon discharge of a resident, ~~[all]~~ money and valuables of that resident ~~[which]~~ that have been entrusted to the licensee shall be surrendered to the resident in exchange for a signed receipt. Money and valuables kept within the facility shall be surrendered upon demand and those kept in an interest-bearing account shall be made available within three normal banking days~~[s]~~; and

(h) ~~[W]~~ within 30 days following the death of a resident, except in a coroner or medical examiner case, ~~[all]~~ money and valuables of that resident ~~[which]~~ that have been entrusted to the licensee shall be surrendered to the person responsible for the resident or to the executor or the administrator of the estate in exchange for a signed receipt. When a resident dies without a representative or known heirs, immediate written notice thereof shall be given by the facility to the ~~[State M]~~ medical ~~[E]~~ examiner and the registrar of the local probate court, and a copy of ~~[said]~~ the notice shall be filed with the Department.

(4) For residents of Intermediate Care Facilities for Individuals with Intellectual Disabilities, no individuals under the age of 22 years old shall live in the same room with:

(a) more than one individual; or

(b) with individuals over the age of 22 years, unless they are members of the individual's immediate family.

(5) The administrator is responsible to develop written policies and procedures to implement these requirements and shall obtain written approval from the Department for any exceptions to these rules.

**R432-200-13. Admission and Discharge.**

~~[Each facility shall develop admission and discharge policies that shall be available to the public upon request.]~~

(1) ~~[Admission Policies.]~~ Each facility shall have written policies and procedures for admission of residents.

(a) Residents shall be accepted for treatment and care only if the facility is properly licensed for the treatment required and has the staff and resources to meet the medical, physical~~[s]~~ and emotional needs of the resident.

(b) Residents shall be admitted by, and remain under the care of, a physician or individual licensed to prescribe care for the resident.

(c) There shall be a written order ~~[(a documented telephone order is acceptable)]~~ for admission and care at the time of admission.

(d) A resident shall be assessed within seven days of admission unless otherwise indicated by a program requirement. Admission policies shall define the assessment process, including an identification of the resident's medical, nursing, social, physical~~[s]~~ and emotional needs.

(e) A physical examination shall be performed ~~[in accordance with R432-200-14(2)]~~ by the attending physician or by an individual licensed and ~~[so]~~ authorized to do so.

(f) Upon admission, the facility shall document a brief narrative of the resident's condition, including ~~[his]~~ temperature, pulse, respiration, blood pressure~~[s]~~ and weight ~~[shall be documented]~~.

(g) ~~[The resident shall be informed of his rights as a resident.]~~ facility shall inform each resident of their rights upon admission.

(i) A written copy of the facility's resident~~[s]~~ rights shall be explained and given to the resident.

(ii) If the resident is unable to comprehend ~~[his]~~ the resident rights, a written copy shall be given to the next of kin or other responsible party.

(iii) The inability of the resident to provide consent shall be documented in the resident~~[s]~~ record.

(2) ~~[Discharge Policies.]~~ A resident may be discharged or transferred for one or more of the following reasons:

(a) ~~[The resident shall be discharged when]~~ the facility is no longer able to meet the resident's identified needs~~[s]~~;

(b) ~~[There shall be an order for the resident's discharge by the physician or person in charge of the resident's care.]~~ the resident poses a threat to themselves or others; or

(c) ~~[A discharge summary containing a brief narrative of the resident's diagnoses, course of treatment, conditions, and final disposition shall be documented in the medical record. [the resident or responsible person wishes to transfer.~~

~~[(d)]3) Upon discharge of a resident, [all] money and valuables of that resident [which] that have been entrusted to the licensee shall be surrendered to the resident in exchange for a signed receipt [-(see R432-200-12(3))].~~

~~(4) The facility shall issue a discharge notice to the resident and responsible person 30 days prior to discharge, unless an immediate discharge is necessary to protect the resident.~~

~~(5) There shall be a physician order for the resident discharge, along with a summary of the resident's condition, treatment and final disposition in the medical record.~~

**KEY:** health care facilities

**Date of Last Change:** ~~2022~~~~[October 1, 2011]~~

**Notice of Continuation:** August 13, 2021

**Authorizing, and Implemented or Interpreted Law:** 26-21-5; 26-21-6

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R495-883	Filing ID 54094

**Agency Information**

<b>1. Department:</b>	Human Services	
<b>Agency:</b>	Administration	
<b>Room no.:</b>	DHS Administration Office	
<b>Building:</b>	Multi-Agency State Office Building	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Casey Cole	801-741-7523	cacole@utah.gov
Jonah Shaw	801-538-4225	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R495-883. Children in Care Support Services
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the current edition of the Office of Administrative Rules' Rulewriting Manual.

<b>4. Summary of the new rule or change</b> (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule is being amended to meet the standards found in the Administrative Rules' Rulewriting Manual, pursuant to Executive Order No. 2021-12.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.
<b>B) Local governments:</b>
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to non-small businesses.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to persons other than small businesses, non-small businesses, state, or local government entities.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs associated with the amendment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

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

**Regulatory Impact Table**

Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**

The Executive Director of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

45 CFR 301 through 305	Section 62A-11-301	Section 78B-12-108
45 CFR 307	Section 62A-11-320.5	Section 78B-12-301
Section 62A-1-111	Section 62A-11-320.6	Section 78B-12-302
Section 62A-11-104	Section 78A-6-356	Section 78B-12-106
Section 62A-11-107		

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 01/03/2022

**10. This rule change MAY become effective on:** 01/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

**Agency head or designee, and title:** Tracy Gruber, Executive Director  
**Date:** 11/01/2021

**R495. Human Services, Administration.**

**R495-883. Children in Care Support Services.**

**R495-883-1. Authority and Purpose.**

[The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules as necessary by Section 62A-11-107.]

(1) The Department of Human Services is authorized to create rules necessary for social services pursuant to Section 62A-1-111. The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules pursuant to Section 62A-11-107.

(2) The purpose of this rule is to provide definitions of terms used in this rule and information about child support services for children in care or custody of the [State of Utah]state.

**R495-883-2. Definitions.**

[Terms used in this rule are defined as]As used in this rule:

(1) "Child [S]support [S]services" [–]means efforts to enforce and collect the child support amount due for a calendar month.

(2) "Custodial [P]arent" [~~—~~]means one of the financially obligated parents of a child placed in the care or custody of the state. [~~—~~]  
~~(3) Third Party Payments entitlement benefits (SSA, SSI), insurance benefits, trust fund benefits, paid in behalf of the child.]~~

**R495-883-3. Child Support Services for Children in Care.**

(1) ORS shall collect child support ~~[and Third Party Payments in]~~ on behalf of children placed in the custody of the ~~[State of Utah]state~~ ~~[in accordance with]~~ pursuant to Sections 78A-6-~~[4106]~~356, ~~[78B-12-101 et seq.]~~78B-12-106, 78B-12-108, 78B-12-301, 78B-12-302, 62A-1-117, 62A-11-104, 62A-11-107, 62A-11-301~~[et seq.]~~, 62A-11-320.5, and 62A-11-320.6, and ~~[F]federal [R]regulations 45 CFR [300]301 through 305 and 45 CFR 307.~~

(2) ~~[If a current child support order exists,]~~ Pursuant to Section 78B-12-108, ORS may collect and enforce the child support on behalf of the state or a state-licensed facility based on the current existing order ~~[in accordance with Section 78B-12-108].~~

(3) ORS may conduct a review of circumstances to determine if an existing order is in compliance with the child support guidelines and if the case meets the review criteria ~~[in accordance with]~~ pursuant to Sections 62A-11-320.5 and 62A-11-320.6. If the order is not in compliance with the child support guidelines but still meets the review criteria, ORS may issue an administrative order ~~[may be issued]~~, under the administrative adjudication process as provided in ~~[F]Rule [R497-100-1 et seq.]R527-200~~, while the child is under the jurisdiction of the juvenile court and in a placement other than with ~~[his]the child's~~ parents.

(4) If a current child support order does not exist, ORS will determine the monthly child support obligation ~~[will be determined in accordance with]~~ pursuant to the child support guidelines enacted in Sections 78B-12-301 and 78B-12-302.

(5) Child ~~[S]support [S]services~~ payments are due and payable on the first day of the month. ~~[Child support shall not be prorated]~~ ORS shall not prorate child support for partial months.

**R495-883-4. Child Support Services During Trial Placements or Temporary Lapses in State Custody.**

(1) Pursuant to Section 78A-6-356, ORS may continue to collect child support based on an administrative order ~~[If an administrative order for child support is]~~ issued at the time the child is initially placed in custody~~[s]~~ if:

(a) the child returns home; and~~[s]~~

(b) the child is subsequently returned to state custody~~];~~ ~~ORS may collect and enforce child support based on the existing administrative order in accordance with Section 78A-6-1106].~~

(2) Child ~~[S]support [S]services~~ shall not be provided on behalf of the Division of Child and Family Services when a child in custody returns to the home of a custodial parent for more than seven consecutive days.

(a) The more than seven consecutive days at the home of a custodial parent may span two or more calendar months. If the more than seven consecutive days span over more than one calendar month, ORS shall not provide child support services ~~[shall not be provided]~~ for any of the affected months.

(b) The child support debt will be retroactively adjusted to remove the child support amount due for each calendar month affected by the more than seven consecutive day stay and child support services to collect any child support due for the affected calendar month(s) will not be provided.

(c) Adjustments ~~[for this purpose]~~ under Subsection (2)(b) cannot be made to a child support case by ORS until information

verifying the date, duration and location of the more than seven consecutive day stay is received from the Division of Child and Family Services.

(d) ORS shall complete the adjustment to the child support debt within ten business days of receiving the necessary verification from the Division of Child and Family Services.

(e) If ORS has collected the child support amount ~~[has been collected]~~ from the custodial parent prior to ORS receiving the necessary verification from the Division of Child and Family Services, ORS will first apply the amount collected ~~[will be first applied]~~ to other debts owed to the state for times that the child has been in care or custody of the state. If no other child in care debts exists, ORS will refund the amount ~~[will be refunded]~~ to the custodial parent.

(f) If the consecutive day stay becomes a permanent placement in the custodial parent's home according to information received from the Division of Child and Family Services, ORS will provide continuing child support services, if appropriate, as of the date of the permanent placement ~~[as required by]~~ pursuant to 45 CFR 302.33(a)(4).

**KEY: child support, foster care, youth corrections**

**Date of Last Change: 2022**~~[August 9, 2010]~~

**Notice of Continuation: April 16, 2020**

**Authorizing, and Implemented or Interpreted Law: 45 CFR [300-307]301 through 305; 45 CFR 307; 62A-1-117; 62A-1-111; 62A-11-104; 62A-11-107; 62A-11-301; 62A-11-320.5; 62A-11-320.6; 78A-6-[4106]356; [78B-12-101;] 78B-12-106; 78B-12-108; 78B-12-301; 78B-12-302**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R495-884	Filing ID 54103

**Agency Information**

<b>1. Department:</b>	Human Services	
<b>Agency:</b>	Administration	
<b>Room no.:</b>	DHS Administration Office	
<b>Building:</b>	Multi-Agency State Office Building	
<b>Street address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	195 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jodi Witte	801-741-7417	jwitte@utah.gov
Casey Cole	801-741-7523	cacole@utah.gov

Jonah Shaw	801-538-4225	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R495-884. Kinship Locate
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the current edition of the Office of Administrative Rules' Rulewriting Manual.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
This rule is being amended to meet the standards found in the Administrative Rules' Rulewriting Manual, pursuant to Executive Order No. 2021-12.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.
<b>B) Local governments:</b>
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It

is not anticipated that this amendment would create a fiscal cost or savings to non-small businesses.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to other persons.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs associated with the amendment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>B) Department head approval of regulatory impact analysis:</b>			
The Executive Director of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.			

**Citation Information**

<b>7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
42 U.S.C. 653	45 CFR 302.35	45 CFR 303.21
Section 62A-1-111	Section 62A-11-107	

**Public Notice Information**

<b>9. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
<b>A) Comments will be accepted until:</b>	01/03/2022

<b>10. This rule change MAY become effective on:</b>	01/10/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	11/01/2021
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**R495. Human Services, Administration.** Error! Bookmark not defined.

**R495-884. Kinship Locate.**

**R495-884-1. Authority and Purpose.**

(1) The Department of Human Services is authorized to create rules necessary for social services pursuant to Section 62A-1-111. The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules [as necessary by] pursuant to Section [U.C.A.]62A-11-107.

(2) The purpose of this rule is to provide information about kinship locate services provided pursuant to 42 U.S.C. 653 including[-] who is authorized to request kinship locate services, what information is required to make a request, and what information may be provided from ORS.

**R495-884-2. Authorized Persons.**

[-----] (1) 42 USC 653 (2008) defines "authorized persons" and is incorporated by reference.]

[(2)](1) [ORS provides locate information to authorized persons who request location information about the parents, putative father and/or non-parental relatives of children in the custody of the Department of Child and Family Services (DCFS).] "Authorized persons" for the purpose of this rule regarding kinship locate is defined in 42 U.S.C. 653(c)(4). An "authorized person" is an agent of a state agency that administers a program pursuant to Part B or Part E of Title IV of the Social Security Act.

[(3)](2) [An authorized person for kinship locate purposes is a State agency that administers a program under Title IV-B (Child and Family Services) or Title IV-E (Foster Care and Adoption Assistance).] ORS provides locate information to authorized persons who request location information about the parents, putative father or non-parental relatives of children in the custody of the Department of Child and Family Services.

**R495-884-3. Requesting Kinship Locate Services.**

[(1)]-] A request from an authorized person must include the following information:

- [(a)](1) the child's name;
- [(b)](2) the child's date of birth or [s]Social [s]Security number;
- [(c)](3) the individual's name;
- [(d)](4) the individual's relationship to the child; and[-]
- [(e)](5) the individual's date of birth or [s]Social [s]Security number.

**R495-884-4. Information Provided for Kinship Locate.**

(1) ORS will only provide locate information found using the Federal Parent Locator Service [(Federal PLS)] and the State Parent Locator Services[-(State PLS)].

(2) ORS will provide the following kinship locate information, if known, about a parent, alleged father or non-parent relative[-]:

- (a) the individual's name;
- (b) the individual's [s]Social [s]Security number;
- (c) the individual's most recent address; and[-]
- (d) the individual's employer name, employer identification number (EIN), address.

(3) If ORS has issued an administrative child support order that establishes the legal paternity relationship for the child in custody, ORS will provide a copy of that administrative order to the authorized person. Other documentation establishing paternity must be obtained by the requesting agency directly from the keeper of the record.

[(3)](4) Pursuant to 45 CFR 303.21, [H]if a safeguard determination has been made for an individual on an ORS case, the individual's information will not be released[-in accordance with 45 CFR 303.21].

**KEY: child support, foster care, kinship locate**

**Date of Last Change: 2022[August 15, 2012]**

**Notice of Continuation: January 27, 2017**

Authorizing, and Implemented or Interpreted Law: 45 CFR 302.35; 45 CFR 303.21; ~~45 CFR 303.70~~; 42 U.S.C. 653; ~~62A-1-111~~; 62A-11-107

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R527-36	Filing ID 54113

**Agency Information**

<b>1. Department:</b>	Human Services	
<b>Agency:</b>	Recovery Services	
<b>Street address:</b>	515 E 100 S	
<b>City, state and zip:</b>	Salt Lake City, UT 84102-4211	
<b>Mailing address:</b>	PO Box 45033	
<b>City, state and zip:</b>	Salt Lake City, UT 84145-0033	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mary Burgener	801-741-7465	mburgene@utah.gov
Casey Cole	801-741-7523	cacole@utah.gov
Jonah Shaw	801-538-4225	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R527-36. Collection of Child Support After a Termination of Parental Rights or Adoption
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the current edition of the Office of Administrative Rules' Rulewriting Manual.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
This rule is being amended to meet the standards found in the Administrative Rules' Rulewriting Manual, pursuant to Executive Order No. 2021-12.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.
<b>B) Local governments:</b>
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to non-small businesses.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):</b>
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to persons other than small businesses, non-small businesses, state, or local government entities.
<b>F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):</b>
There are no compliance costs associated with the amendment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

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

**Regulatory Impact Table**

Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**

The Executive Director of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 62A-11-107	Section 78B-6-138	Section 80-4-105
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Section 62A-1-111

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 01/03/2021

**10. This rule change MAY become effective on:** 01/10/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	11/01/2021
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**R527. Human Services, Recovery Services.**Error! Bookmark not defined.

**R527-36. Collection of Child Support After a Termination of Parental Rights or Adoption.**

**R527-36-1. Authority and Purpose.**

~~(1)~~(1) The Department of Human Services ~~[is authorized to]~~may create rules necessary for ~~[the provision of]~~social services ~~[by]~~pursuant to Section 62A-1-111~~[and 62A-11-107]~~. The Office of Recovery Services (ORS) may adopt, amend, and enforce rules pursuant to Section 62A-11-107.

~~(2)~~(2) The purpose of this rule is to specify how ~~[the Office of Recovery Services/Child Support Services (ORS/CSS)]~~the Office of Recovery Services/Child Support Services (ORS/CSS) will handle support obligations when there is a termination of parental rights or an adoption order ~~[which]that~~ does not specifically preserve arrears.

**R527-36-2. ORS[CSS] Collection of Child Support after Termination of Parental Rights Orders or Adoption Orders.**

(1) Pursuant to Section ~~[78A-6-513]~~80-4-105 and Section 78B-6-138, a parent is released from any legal obligation to pay child support or provide medical support when there is a termination of parental rights order or an adoption order.

(2) ~~[If the parental rights of either the parent paying support or the parent receiving support have been terminated, or if the child has been legally adopted,]~~ORS[CSS] will ~~[not]~~continue collection efforts toward any accrued child support arrears from or for a parent whose rights have been terminated if the parental termination of rights or adoption order ~~[does not]~~specifically preserves the arrears balance to be collected.

~~\_\_\_\_\_]~~An exception exists pursuant to ~~[Department of Human Services']~~Rule R495-882 when the child is placed in the care or custody of the state~~[or with an individual other than the parent]~~ for at least 30 days.

**KEY: parental rights, adoption, child support**

Date of Last Change: ~~2022~~~~[September 26,]~~  
 Authorizing, and Implemented or Interpreted Law: 62A-1-111;  
 62A-11-107; ~~78A-6-513~~~~[80-4-105]~~; 78B-6-138

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R527-38	Filing ID 54109

**Agency Information**

<b>1. Department:</b>	Human Services	
<b>Agency:</b>	Recovery Services	
<b>Street address:</b>	515 E 100 S	
<b>City, state and zip:</b>	Salt Lake City, UT 84102-4211	
<b>Mailing address:</b>	PO Box 45033	
<b>City, state and zip:</b>	Salt Lake City, UT 84145-0033	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Nick Buchei	801-741-7520	nabuchei@utah.gov
Casey Cole	801-741-7523	cacole@utah.gov
Jonah Shaw	801-538-4225	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R527-38. Unenforceable Cases
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the current edition of the Office of Administrative Rules' Rulewriting Manual.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
This rule is being amended to meet the standards found in the Administrative Rules' Rulewriting Manual, pursuant to Executive Order No. 2021-12.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.
<b>B) Local governments:</b>
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to non-small businesses.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):</b>
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to other persons.
<b>F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):</b>
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to affected persons.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

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

Regulatory Impact Table			
Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**

The Executive Director of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 62A-1-111	Section 62A-11-107	45 CFR 303.11
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 01/03/2022

**10. This rule change MAY become effective on:** 01/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	11/01/2021
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**R527. Human Services, Recovery Services.**Error! Bookmark not defined.

**R527-38. Unenforceable Cases.**

**R527-38-1. Authority and Purpose.**

~~1.~~(1) The Department of Human Services is authorized to create rules necessary for ~~the provision of~~ social services ~~by~~ pursuant to Section 62A-1-111. ~~and~~ The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules pursuant to Section 62A-11-107.

~~2.~~(2) The purpose of this rule is to establish the criteria ~~which~~ that a support case must satisfy to be categorized as unenforceable pursuant to 45 CFR 303.11.

**R527-38-2. Unenforceable Case Criteria.**

~~1. All of~~ The following criteria must be met for a support case to be categorized as unenforceable:

~~a.~~(1) The case is currently not a paying case~~;~~, ~~in~~ meaning that payments ~~shall not~~ have not~~been~~ posted to the case during the last 12 months~~;~~, and payments are not expected to ~~be~~ post~~ed~~ in the near future~~;~~;

~~b.~~(2) ~~No federal offset money has been received by the Office of Recovery Services (ORS)~~ ORS has not received any federal offset money ~~during~~ within the last two years~~;~~;

~~e.~~(3) ~~No state tax money shall have been received by ORS~~ ORS has not received any state tax money within the ~~most recent~~ last two years~~;~~;

~~d.~~(4) ORS ~~shall have~~ has collected \$1,000 or less on the case over the last two years by methods other than federal offset or state tax~~;~~;

~~e.~~(5) ~~There are no~~ ORS has not located any financial institution accounts belonging to the non-custodial parent that can be levied or attached~~;~~;

NOTICES OF PROPOSED RULES

~~(6)~~ ORS has not located any ~~(No)~~ executable assets belonging to the non-custodial parent ~~(have been identified)~~; and ~~(7)~~ If the matter concerns a Title IV-E case, ~~(all of)~~ the children identified as being part of the case ~~(shall)~~ have been out of state custody for at least one year or parental rights ~~(shall)~~ have been terminated.

**KEY:** child support  
**Date of Last Change:** 2022~~(July 18, 2019)~~  
**Notice of Continuation:** November 26, 2018  
**Authorizing, and Implemented or Interpreted Law:** 45 CFR 303.11; 62A-1-111; 62A-11-107

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R527-275	Filing ID 54102

**Agency Information**

<b>1. Department:</b>	Human Services	
<b>Agency:</b>	Recovery Services	
<b>Street address:</b>	515 E 100 S	
<b>City, state and zip:</b>	Salt Lake City, UT 84102-4211	
<b>Mailing address:</b>	PO Box 45033	
<b>City, state and zip:</b>	Salt Lake City, UT 84145-0033	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Casey Cole	801-741-7523	cacole@utah.gov
Jonah Shaw	801-538-4225	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R527-275. Passport Release
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the current edition of the Office of Administrative Rules' Rulewriting Manual.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>

This rule is being amended to meet the standards found in the Administrative Rules' Rulewriting Manual, pursuant to Executive Order No. 2021-12.

**Fiscal Information**

**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

**A) State budget:**

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.

**B) Local governments:**

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to non-small businesses.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to persons other than small businesses, non-small businesses, state, or local government entities.

**F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):**

There are no compliance costs associated with the amendment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

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

Regulatory Impact Table			
Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**

The Executive Director of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

22 CFR 51.60	Section 62A-1-111	Section 62A-1-107
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	01/03/2022
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<b>10. This rule change MAY become effective on:</b>	01/10/2022
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	11/01/2021
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**R527. Human Services, Recovery Services.** ~~Error! Bookmark not defined.~~

**R527-275. Passport Release.**

**R527-275-1. ~~Purpose and Authority and Purpose.~~**

~~[1.](1) The Department of Human Services is authorized to create rules necessary for social services pursuant to Section 62A-1-111. The Office of Recovery Services (ORS) is authorized to [create]adopt, amend, and enforce rules [necessary for the provision of social services by]pursuant to Section 62A-11-107.~~

~~[2.](2) The purpose of this rule is to specify the procedures for [the office]ORS to release an obligor's passport after it has been denied for failure to pay child support pursuant to 22 CFR 51.60(a)(2).~~

~~[R527-275-2. Federal Requirements.~~

~~The Office of Recovery Services/Child Support Services (ORS/CSS) adopts the federal regulations as published in 22 CFR 51.60, 51.70, 51.71(1), 51.72, 51.73, and 51.74 April 1, 2008 ed., which are incorporated by reference in this rule.~~

~~[2.](2) **R527-275-3. Passport Release Criteria.**~~

~~[1.](1) If the obligor applies for a new passport or to have a previously-issued passport renewed and is notified that the application has been denied for failure to pay child support, the obligor must contact ORS[CSS] to get the passport released. The passport will be released if the obligor pays [all]in full the past-due child support owing to the state IV-D Agency and[for] obligee.~~

~~[2.](2) If the obligor's employment requires a valid passport or there are other extenuating circumstances that require the obligor to maintain a valid passport, an exception may be granted if:~~

NOTICES OF PROPOSED RULES

~~[a-](a) the [ease is-]debts on the case are IV-A or assigned to the state [-if]and the ORS [or CSS-D]director or designee approves an exception to the payment-in-full requirement[-]; or~~

~~[b-](b) the [ease is-]debts on the case are non-IV-A[-]; or owed to the obligee; and~~

~~[i-](i) [if-]the ORS [or CSS-D]director or designee approves an exception to the payment-in-full requirement; and[-]~~

~~[ii-](ii) [if the child support is owed to the obligee, ORS/CSS]ORS is able to obtain written approval from the obligee to release the passport.~~

**KEY: child support, passport**

**Date of Last Change: 2022[June 9, 2009]**

**Notice of Continuation: December 14, 2018**

**Authorizing, and Implemented or Interpreted Law: [18 U.S.C. 1073; 22 CFR 51.60; 22 CFR 51.70; 22 CFR 51.71(1); 22 CFR 51.72; 22 CFR 51.73; 22 CFR 51.74; 62A-1-111; 62A-11-107]**

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Amendment

<b>Utah Admin. Code Ref (R no.):</b>	<b>R527-330</b>	<b>Filing ID</b>	<b>54108</b>
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**Agency Information**

<b>1. Department:</b>	Human Services		
<b>Agency:</b>	Recovery Services		
<b>Street address:</b>	515 E 100 S		
<b>City, state and zip:</b>	Salt Lake City, UT 84102-4211		
<b>Mailing address:</b>	PO Box 45033		
<b>City, state and zip:</b>	Salt Lake City, UT 84145-0033		
<b>Contact person(s):</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Jodi Witte	801-741-7417	jwitte@utah.gov	
Casey Cole	801-741-7523	cacole@utah.gov	
Jonah Shaw	801-538-4225	jshaw@utah.gov	
Please address questions regarding information on this notice to the agency.			

**General Information**

<b>2. Rule or section catchline:</b>
R527-330. Posting Priority of Payments Received
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>

Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the current edition of the Office of Administrative Rules' Rulewriting Manual.

**4. Summary of the new rule or change** (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This rule is being amended to meet the standards found in the Administrative Rules' Rulewriting Manual, pursuant to Executive Order No. 2021-12.

**Fiscal Information**

**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

**A) State budget:**

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.

**B) Local governments:**

The amendment of this rule is due to Executive No. Order 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to non-small businesses.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to other persons.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs associated with the amendment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

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

**Regulatory Impact Table**

Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**

The Executive Director of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 62A-1-111	Section 62A-11-107	42 U.S.C. 657
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	01/03/2022
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<b>10. This rule change MAY become effective on:</b>	01/10/2022
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	11/01/2021
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**R527. Human Services, Recovery Services.**

**R527-330. Posting ~~Priority of~~ Payments Received.**

**R527-330-1. ~~Purpose and~~ Authority and Purpose.**

~~[4.](1) The [Office of Recovery Services (ORS)]Department of Human Services is authorized to create rules necessary for [the provision of]social services [by]pursuant to Section [62A-11-107]62A-1-111. The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules pursuant to Section 62A-11-107.~~

~~[2.](2) The purpose of this rule is to clarify that ORS must first apply support payments to current support obligations before applying the money to [past due]arrear debts. It also establishes a method for posting payments when the obligor does not provide instructions for the payment and has more than one child support case.~~

**R527-330-2. Posting Priority of Payments Received.**

~~(1) [The Office of Recovery Services]ORS shall determine [to which]the debt [payment will]to be credited in instances where the obligor has more than one child support case, and the obligor has not [expressed his/her intention]expressly designated that the payment go to a specific debt.~~

~~(2) For [C]child [S]support [S]services cases, if the obligor [expresses intent, the payment shall be credited to the case indicated. When the obligor has not expressed his/her intention, the Office of Recovery Services/Child Support Services (ORS/CSS) shall pro rate payments, other than payments received from the Federal tax refund intercept program, among all of the obligor's current support obligations. Once the current support obligations have been met, a~~

NOTICES OF PROPOSED RULES

payment shall be split equally among all of the obligor's child support cases with arrears] designates the debt where the payment should be posted, ORS shall honor the obligor's expressed intent and credit the payment to the designated debt.

(3) Absent a specific designation, ORS shall apply payments in the following order:

(a) pro-rated among the obligor's current support obligations; and then

(b) divided equally among child support cases with arrears.

(4) A payment credited to a child support case with arrears shall be applied to the oldest debt, and arrears owed to the family shall be paid before arrears owed to the [S]state [according to] pursuant to the priority designations specified in 42 U.S.C. [Sec.] 657.

(5) The provisions in this section do not apply to payments received from the following as they have their own disbursement protocols:

(a) Federal Tax Refund Intercept Program; and

(b) discounted settlements.

**KEY:** child support, debt, public assistance programs

Date of Last Change: ~~2022~~ [October 23, 2012]

Notice of Continuation: January 23, 2017

Authorizing, and Implemented or Interpreted Law: 62A-1-111; 62A-11-107; 42 U.S.C. 657

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R527-332	Filing ID 54104

**Agency Information**

<b>1. Department:</b>	Human Services	
<b>Agency:</b>	Recovery Services	
<b>Street address:</b>	515 E 100 S	
<b>City, state and zip:</b>	Salt Lake City, UT 84102-4211	
<b>Mailing address:</b>	PO Box 45033	
<b>City, state and zip:</b>	Salt Lake City, UT 84145-0033	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mary Burgener	801-741-7465	mburgene@utah.gov
Casey Cole	801-741-7523	cacole@utah.gov
Jonah Shaw	801-538-4225	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R527-332. Unreimbursed Assistance Calculation
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the current edition of the Office of Administrative Rules' Rulewriting Manual.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
This rule is being amended to meet the standards found in the Administrative Rules' Rulewriting Manual, pursuant to Executive Order No. 2021-12.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.
<b>B) Local governments:</b>
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to non-small businesses.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to persons other than small businesses, non-small businesses, state, or local government entities.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs associated with the amendment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**

The Executive Director of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 62A-11-107	Section 62A-11-111	45 CFR 302.32
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 01/03/2022

**10. This rule change MAY become effective on:** 01/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	11/01/2021
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**R527. Human Services, Recovery Services.**Error! Bookmark not defined.

**R527-332. Unreimbursed Assistance**~~[Calculation]~~.  
**R527-332-1. Authority and Purpose.**

[1] The Department of Human Services is authorized to create rules necessary for ~~[the provision of]~~ social services ~~[by]~~ pursuant to Section 62A-1-111. The Office of Recovery Services (ORS) is authorized to ~~[create]~~ adopt, amend, and enforce rules ~~[necessary to fulfill its duties by]~~ pursuant to Section 62A-11-107.

[2] The purpose of this rule is to meet the requirements of 45 CFR 302.32~~[and 45 CFR 302.51,]~~ ~~[which]~~ that requires ~~[the office]~~ ORS, in months where there is an assignment of support, to

NOTICES OF PROPOSED RULES

refund collections in excess of the unreimbursed assistance amount (URA) to the family within two ~~calendar~~ business days of the end of ~~each~~ the month that ~~assistance~~ payment was received.

**R527-332-2. Definitions.**

~~[4-](1)~~ (1) "IV-A Assistance" means cash assistance ~~[which was issued [based upon] per Title IV-A [funding of AFDC or FEP programs] of the Social Security Act. Cash assistance has been called Aid to Families with Dependent Children (AFDC), Temporary Assistance for Needy Families (TANF), and Family Employment Program (FEP).~~

~~[2-](2)~~ (2) "Unreimbursed Assistance" means the total lifetime amount of IV-A cash assistance that the ~~[S]~~ [S] state has ~~[expended]~~ disbursed to a participating individual's [on behalf of the IV-A-] household for which the [S] state['] or [F] federal government have not been reimbursed by assigned support collections.

**R527-332-3. ~~[Unreimbursed Assistance -] Calculation of Unreimbursed Assistance.~~**

~~[The Office of Recovery Services]~~ (1) ORS shall calculate the amount of unreimbursed assistance. The calculation shall compare the amount of IV-A child support payments plus the amount of IV-A overpayment payments against the lifetime IV-A benefit amount.

~~[In the event that]~~ (2) If the unreimbursed assistance amount in Subsection (1) becomes zero, or greater than zero;

(a) remaining assigned debts become payable to the case participant receiving support instead of to the state; and

(b) collection of ~~the~~ IV-A overpayment ~~[amount]~~ debts will be suspended.

**KEY: assistance, overpayments, child support**

**Date of Last Change: 2022** ~~[February 9, 2010]~~

**Notice of Continuation: May 3, 2019**

**Authorizing, and Implemented or Interpreted Law: 62A-1-111; 62A-11-107; 45 CFR 302.32** ~~[; 45 CFR 302.51]~~

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R527-394	Filing ID 54110

**Agency Information**

<b>1. Department:</b>	Human Services	
<b>Agency:</b>	Recovery Services	
<b>Street address:</b>	515 E 100 S	
<b>City, state and zip:</b>	Salt Lake City, UT 84102-4211	
<b>Mailing address:</b>	PO Box 45033	
<b>City, state and zip:</b>	Salt Lake City, UT 84145-0033	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Nick Buchei	801-741-7520	nabuchei@utah.gov

Casey Cole	801-741-7523	cacole@utah.gov
Jonah Shaw	801-538-4225	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R527-394. Posting Bond or Security
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the current edition of the Office of Administrative Rules' Rulewriting Manual.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the differences between the repealed rule and the reenacted rule):</b>
This rule is being amended to meet the standards found in the Administrative Rules' Rulewriting Manual, pursuant to Executive Order No. 2021-12.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.
<b>B) Local governments:</b>
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the local governments.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to non-small businesses.

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

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to other persons.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to affected persons.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**

The Executive Director of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 62A-1-111	Section 62A-11-321	45 CFR 303.104
Section 62A-11-107		

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 01/03/2022

**10. This rule change MAY become effective on:** 01/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	11/01/2021
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NOTICES OF PROPOSED RULES

**R527. Human Services, Recovery Services.**~~Error! Bookmark not defined.~~

**R527-394. Posting Bond or Security.**

**R527-394-1. Authority and Purpose.**

~~[1-](1)~~ The Department of Human Services is authorized to create rules necessary for ~~[the provision of]~~ social services ~~[by]~~ pursuant to Section 62A-1-111. ~~[and]~~ The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules pursuant to Section 62A-11-107.

~~[2-](2)~~ The purpose of this rule is to meet the requirements of 45 CFR 303.104 and Section 62A-11-321 that ~~[the office]~~ ORS develop[s] guidelines to determine whether posting bond or security is appropriate on a support case.

**R527-394-2. Criteria.**

~~[The Office of Recovery Services may petition the court to require the obligor to post bond or provide other security for the payment of a support debt if:]~~ (1) For ORS to petition the court to require the obligor to post bond or security for payment of a support debt there must be:

~~(a) no payment for the 90 day period prior to the time of petitioning the court; and~~

~~(b) a determination by ORS that such an action is appropriate.~~

~~(2) ORS will determine whether an action is appropriate by considering the following criteria:~~

~~[1-](a) [the Office determines] the obligor has [or has had] the ability to pay but has failed or refused to pay[; and];~~

~~[2-](b) the obligor has the ability to provide bond or security and to pay court ordered child support[; and];~~

~~[3-](c) [the Office determines that] income withholding [and garnishment are] is not a viable [or cost effective] method[s] of collecting the support obligation[;]; and[;]~~

~~[4-] the obligor has not made a payment during the period of 90 days prior to the time of a petition to the court in accordance with section (1) above, and[;]~~

~~[5-](d) the circumstances of the case include one of the following conditions:~~

~~[a-](i) the obligor is self-employed, voluntarily unemployed or underemployed, or receives income-in-kind[; or];~~

~~[b-](ii) the obligor realizes income from seasonal or other irregular employment or from commissions[;]; or[;]~~

~~[e-](iii) there is reason to believe that the obligor is preparing to leave the state.~~

**KEY: child support, bonding requirements**

Date of Last Change: 2022~~[July 13, 2009]~~

Notice of Continuation: April 29, 2019

Authorizing, and Implemented or Interpreted Law: 62A-1-111; 62A-11-107; 62A-11-321; 45 CFR 303.104

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R527-412	Filing ID 54107

**Agency Information**

1. Department:	Human Services
Agency:	Recovery Services

Street address:	515 E 100 S	
City, state and zip:	Salt Lake City, UT 84102-4211	
Mailing address:	PO Box 45033	
City, state and zip:	Salt Lake City, UT 84145-0033	
Contact person(s):		
Name:	Phone:	Email:
Nick Buchei	801-741-7520	nabuchei@utah.gov
Casey Cole	801-741-7523	cacole@utah.gov
Jonah Shaw	801-538-4225	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R527-412. Intercept of Unemployment Compensation
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the current edition of the Office of Administrative Rules' Rulewriting Manual.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
This rule is being amended to meet the standards found in the Administrative Rules' Rulewriting Manual, pursuant to Executive Order No. 2021-12.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.

<b>B) Local governments:</b>			
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.			
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):			
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.			
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):			
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to non-small businesses.			
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):			
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to other persons.			
<b>F) Compliance costs for affected persons</b> (How much will it cost an impacted entity to adhere to this rule or its changes?):			
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to affected persons.			
<b>G) Comments by the department head on the fiscal impact this rule may have on businesses</b> (Include the name and title of the department head):			
After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses. Tracy Gruber, Executive Director			
<b>6. A) Regulatory Impact Summary Table</b> (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>

State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>B) Department head approval of regulatory impact analysis:</b>			
The Executive Director of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.			

**Citation Information**

<b>7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Section 62A-1-111	Section 35A-4-103	Section 62A-11-401
Section 62A-11-107	15 U.S.C. Sec. 1673	

**Public Notice Information**

<b>9. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
<b>A) Comments will be accepted until:</b>	01/03/2022

<b>10. This rule change MAY</b>	01/10/2022
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<b>become effective on:</b>	
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	11/01/2021
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**R527. Human Services, Recovery Services.  
R527-412. Intercept of Unemployment Compensation.  
R527-412-1. Authority and Purpose.**

~~[4-](1)~~ The Department of Human Services is authorized to create rules necessary for ~~the provision of~~ social services ~~by~~ pursuant to Section 62A-1-111. The Office of Recovery Services (ORS) is authorized to ~~create~~ adopt, amend, and enforce rules ~~necessary to fulfill its duties by~~ pursuant to Section 62A-11-107.

~~[2-](2)~~ The purpose of this rule is to define the ~~conditions under which~~ criteria used by ~~the Office of Recovery Services~~ ORS ~~may~~ to collect child support from unemployment compensation and the legal limitations on ~~those~~ the amounts collected.

**R527-412-2. Intercept of Unemployment Compensation.**

~~[4-](1)~~ Unemployment compensation shall be subject to income withholding if the case meets the criteria described in Rule R527-300. If ~~for any reason~~ the unemployment compensation is not subject to income withholding, the unemployment compensation may be subject to garnishment.

~~[2-](2)~~ The obligor ~~may volunteer but~~ shall not be required to pay more than 50% of ~~his~~ the ~~gross~~ disposable earnings from the obligor's ~~[U]nemployment [€]compensation benefit, or the maximum amount [permitted under] as provided in the [Section 303(b), Consumer Credit Protection Act, 15 USC 1673(b)]Consumer Credit Protection Act, 15 U.S.C. 1673(b).~~[-]

(3) If the obligor volunteers to pay more than 50% of the ~~[U]nemployment [€]compensation benefit, or more than the maximum amount [permitted under] provided in the [Section 303(d), Consumer Credit Protection Act, 15 USC 1673(b)]Consumer Credit Protection Act, 15 U.S.C. 1673(b), that agreement shall be in writing.~~

**KEY: child support, unemployment compensation**  
**Date of Last Change:** ~~2022~~ February 9, 2010  
**Notice of Continuation:** January 26, 2017  
**Authorizing, and Implemented or Interpreted Law:** 35A-4-103~~(5)~~; 62A-1-111; 62A-11-107; 62A-11-401; and 15 U.S.C. Sec. 1673

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R527-601	Filing ID 54106

**Agency Information**

<b>1. Department:</b>	Human Services
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<b>Agency:</b>	Recovery Services	
<b>Street address:</b>	515 E 100 S	
<b>City, state and zip:</b>	Salt Lake City, UT 84102-4211	
<b>Mailing address:</b>	PO Box 45033	
<b>City, state and zip:</b>	Salt Lake City, UT 84145-0033	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Scott Weight	801-741-7435	sweigh2@utah.gov
Casey Cole	801-741-7523	cacole@utah.gov
Jonah Shaw	801-538-4225	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R527-601. Establishing or Modifying an Administrative Award for Child Support
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
Pursuant to Executive Order No. 2021-12, this rule is being amended to become consistent with the current edition of the Office of Administrative Rules' Rulewriting Manual.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
This rule is being amended to meet the standards found in the Administrative Rules' Rulewriting Manual, pursuant to Executive Order No. 2021-12.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to the state budget.

<b>B) Local governments:</b>
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to local governments.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to small businesses.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to non-small businesses.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):
The amendment of this rule is due to Executive Order No. 2021-12, it is technical in nature and does not reflect substantive changes to current practices or procedures. It is not anticipated that this amendment would create a fiscal cost or savings to other persons.
<b>F) Compliance costs for affected persons</b> (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs associated with the amendment of this rule, it is technical in nature and does not reflect substantive changes to current practices or procedures.
<b>G) Comments by the department head on the fiscal impact this rule may have on businesses</b> (Include the name and title of the department head):
After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to businesses because this rule is being amended. Tracy Gruber, Executive Director
<b>6. A) Regulatory Impact Summary Table</b> (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)
<b>Regulatory Impact Table</b>

<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**

The Executive Director of Human Services, Tracy Gruber, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 62A-1-111	Section 62A-11-107	Section 78B-12-201
Section 78B-12-203		

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	01/03/2022
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<b>10. This rule change MAY become effective on:</b>	01/10/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Tracy Gruber, Executive Director	<b>Date:</b>	11/01/2021
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**R527. Human Services, Recovery Services.**~~Error! Bookmark not defined.~~

**R527-601. Establishing or Modifying an Administrative Award for Child Support.**

**R527-601-1. Authority and Purpose.**

~~[+](1)~~ The Department of Human Services is authorized to create rules necessary for ~~[the provision of]~~ social services ~~[by]~~ pursuant to ~~[s]~~ Section 62A-1-111. The Office of Recovery Services (ORS) is authorized to adopt, amend, and enforce rules ~~[as necessary by]~~ pursuant to Section 62A-11-107.

~~[2-](2)~~ The purpose of this rule is to provide information as to when ORS will use best available income, what is considered best evidence available, and the procedures that must be taken for best evidence available to be used when establishing or modifying an administrative order.

**R527-601-2. Documentation of Income.**

When complete documentation of current income ~~[as required by]~~ pursuant to Section 78B-12-203 is not available for both parents in an administrative ~~[default, participation, or stipulation]~~ proceeding, ~~[the office]~~ ORS shall use the best evidence available to determine the appropriate child support award, ~~[in accordance with]~~ pursuant to Section 78B-12-201.

**R527-601-3. Definition.**

"Best evidence available" shall include the following: ~~[-an affidavit from a cooperating parent concerning the income of a parent who is not cooperating in providing documentation of his/her income;]~~

- ~~(1) historical records; including~~
  - ~~(a) [old] tax returns;[-]~~
  - ~~(b) pay stubs;[-]~~
  - ~~(c) employer statements;[-]; or[-]~~
  - ~~(d) Department of Workforce Services records;[-]~~
- ~~(2) market rate earned by persons with the same occupation as reported by the Department of Workforce Services; or[-]~~
- ~~(3) the federal minimum wage.~~

**R527-601-4. Procedures.**

Prior to ~~[using the best evidence available to]~~ establishing or modifying an administrative order, ~~[the office]~~ ORS shall ~~[mail]~~ provide a copy of an affidavit describing the income evidence used to the last known address of ~~[the uncooperative parent against whom the evidence is being used]~~ each case participant that is a respondent in the order. The affidavit will be updated if new income information is presented by the case participants and a copy will be provided with the final order.

**KEY: child support**

Date of Last Change: ~~2022~~~~[June 15, 2009]~~  
 Notice of Continuation: June 2, 2017  
 Authorizing, and Implemented or Interpreted Law: 62A-1-111; 62A-11-107; 78B-12-201; 78B-12-203

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R590-116	Filing ID 54096

**Agency Information**

<b>1. Department:</b>	Insurance	
<b>Agency:</b>	Administration	
<b>Room no.:</b>	Suite 2300	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S 2700 W	
<b>City, state and zip:</b>	Taylorsville, UT 84129	
<b>Mailing address:</b>	PO Box 146901	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6901	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R590-116. Valuation of Assets
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
This rule is being changed in compliance with Executive Order No. 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
The majority of the changes are being done to fix style issues to bring this rule text more in line with current rulewriting standards. Other changes make the language of this rule more clear and update the new Section R590-116-6 to use the Department's current language. The changes do not add, remove, or change any regulations or requirements.

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**Fiscal Information**

**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

**A) State budget:**

There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature and will not change how the Department functions.

**B) Local governments:**

There is no anticipated cost or savings to local governments. The changes are largely clerical in nature and will not affect local governments.

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

There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature and will not affect small businesses.

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

There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature and will not affect non-small businesses.

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

There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for any affected persons. The changes are largely clerical in nature.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses. Jonathan T. Pike, Commissioner

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

Regulatory Impact Table			
Fiscal Cost	FY2022	FY2023	FY2024

State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>B) Department head approval of regulatory impact analysis:</b>			
The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.			

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 31A-2-201	Section 31A-17-401	
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	01/03/2022
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<b>10. This rule change MAY become effective on:</b>	01/10/2022
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	11/08/2021
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**R590. Insurance, Administration.**

**R590-116. Valuation of Assets.**

**R590-116-1. Authority.**

This rule is ~~adopted pursuant to Subsection 31A-2-201(3), which authorizes rules to implement the Insurance Code, Subsection 31A-17-401(3)(a)(ii), which requires the commissioner to adopt a rule to determine the present value of future income derived from securities issued by an insurer's insurance subsidiaries, and Subsection 31A-17-401(4), which requires the commissioner to adopt rules for the valuation of insurer assets]~~ promulgated by the commissioner pursuant to Sections 31A-2-201 and 31A-17-401.

**R590-116-2. Purpose and Scope.**

~~[A.](1) The purpose of this rule is to [comply with the statutory requirement of Subsection 31A-17-401(4), to adopt a rule for the valuation of insurer assets. The values established under this rule shall be used to determine compliance with other financial requirements of the]~~ provide direction to establish the value of insurer assets used to determine compliance with the financial requirements of Title 31A, Insurance Code.

~~[B.](2) This rule [shall apply]~~ applies to ~~[all]~~ any person[s] transacting insurance business under ~~[the Utah]~~ Title 31A, Insurance Code.

**R590-116-3. Definitions.**

~~[In addition to the definitions of Section 31A-1-301, the following definitions shall apply for the purposes of this rule:~~

~~A. "Valuation of Securities" shall mean the publication of the Securities Valuation Office of the National Association of Insurance Commissioners (NAIC).~~

~~B. "Amortizable" shall mean having been accorded that rating in "Valuation of Securities".~~

~~C. "In Good Standing" shall mean having been accorded that rating in "Valuation of Securities".~~

~~D. "Purchase Money Mortgages" shall mean mortgages or liens received as consideration, either in whole or part, on the disposal of real estate which secures such mortgage or liens.~~

~~E. "Burial Certificate" or "Burial Contract" if issued by an insurer shall be defined as an insurance contract and not as a security.]~~ Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:

(1) "Amortizable" means accorded that rating in Valuation of Securities.

(2) "In good standing" means accorded that rating in Valuation of Securities.

(3) "NAIC" means the National Association of Insurance Commissioners.

(4) "Purchase money mortgage" means a mortgage or lien received as consideration, either in whole or in part, on the disposal of real estate that secures the mortgage or lien.

(5) "Valuation of Securities" means the publication of the Securities Valuation Office of the NAIC.

**R590-116-4. [Rule] Valuation of Assets.**

~~[A.]~~ An insurer's assets ~~[of insurers transacting insurance under the Utah Insurance Code]~~ shall be valued as follows:

~~[1.](1) Bonds.~~

~~[a.](a)(i) [All obligations having]~~ Each obligation with a fixed term and rate, if not in default ~~[as to]~~ principal or interest, shall be valued:

~~(i) [A] [at the par value, if purchased at par];~~ or

~~(ii) [B] [If purchased above or below par,]~~ at the value to par at maturity and ~~[so as]~~ to yield, in the meantime, the effective rate of interest at which the purchase was made, if purchased above or below par.

(ii) For valuation purposes, the purchase price may not be higher than actual market value at the date of acquisition, including brokerage and any other related fee[s].

(b) A [The] bond[s] may not be carried at a value greater than the call price at which the entire issue may be called.

~~[b.](c)(i) [O] An obligation[s] subject to amortization under the published findings of the NAIC shall be carried at [their] its amortized value[s].~~ [-O]

(ii) An obligation[s which do] that does not qualify for amortization under the published findings of the NAIC shall be carried at [their] its market value or book value, whichever is lower.

~~[e.](d) [D] A demand deposit[s and] or certificate[s] of deposit in a solvent bank[s and] or savings and loan institution[s] shall be valued at the account or certificate balance.~~ [-N]

(i) A negotiable certificate[s] of deposit[s] with a maturity term[s] of less than three years shall be valued at face value. [-N]

(ii) A negotiable certificate[s] of deposit with a maturity term[s] of more than three years shall be valued at face value or market value, whichever is less.

~~[d.](e) [O] An obligation[s] of an insurance subsidiary shall [ies are to] be valued in accordance with [the requirements of Section ] Subsection 31A-17-401(3)(a) [-U.C.A.], and Section [(4)(B) of this rule] R590-116-5.~~

~~[2.](2) Equipment Trust Certificates.~~

(a) [E] An equipment trust certificate[s] subject to amortization under the published findings of the NAIC shall be carried at the [if] certificate's amortized value[s]. [-E]

(b) An equipment trust certificate[s which are] that is not listed as qualified for amortization under the published findings of the NAIC shall be carried at a value not to exceed the certificate's proportionate part of the aggregate principal amount of the equipment obligations outstanding times 70% of the net depreciated value of the equipment pledged.

~~[3.](3) Loans Secured By Real Estate Interest.~~

(a) [Loans] A loan, other than a purchase money mortgage[s, which are], that is adequately secured by a real estate interest[s] and [are] is not in default [as to] principal or interest, shall be valued at the unpaid principal balance if the acquisition was at par. [-Further,]

(b) A mortgage loan[s] acquired at a premium or at a discount [are to] shall be valued at amortized cost. [-Procedures relating to the amortization of premiums and accrual of discounts on mortgage loans are] as follows:

~~[a.](i) [F] for a Federal Housing Administration (FHA) [and] or Veterans Administration (VA) [M] mortgage[s. P];~~

(A) a premium[s] shall be amortized and discounts accrued over a five[-]year period from date of acquisition[-Companies]; and

(B) a company may adjust the asset value[s] of these mortgages to their[-] to its face amount[s], but any excess of aggregate permissive amortized value, cost of mortgage[s] less repayment[s] of principal, adjusted for amortization of premium[s] and accrual of discounts on a five[-]year basis, shall be treated as a nonadmitted asset[-]; and

[b-](ii) [M]for a mortgage[s] other than an FHA [and]or VA Mortgage[s-];

(A) the book value of a real estate mortgage[s] acquired at a premium shall be reported at a value[s] reflecting any write-off[s] of [such-]the premium[s] over a three[-]year period from date of acquisition[-R-]; and

(B) a real estate mortgage[s] purchased at a discount shall be carried at the amortized value.

[e-](c) Premium amortization or discount accretion as required in [R590-116-4.A.3.a. or 3.b. above]Subsection (3)(b) shall be on the straight-line method of computation.

[d-](d) An adequately secured purchase money mortgage[s] shall be valued at the unpaid principal balance of the lien reduced by a reserve for unrealized gain on the sale of real estate[-]; the reserve shall maintain the same proportionate relationship between the unpaid principal balance as the original gain on the sale bore to the original note principal balance.

[e-](e) For a loan[s] that [are]is in default or in foreclosure proceedings, the carrying value[s] may be adjusted for additional expenses, such as taxes, insurance, and legal fees, [that have been]incurred to protect the investment or to obtain clear title to the property.

(i) [-To the extent that such costs are to be-]If a cost is recoverable from the ultimate disposition of the property, the[se] cost[s] may be added to the carrying value of the mortgage loan[s].[-However, such-e]

(ii) A cost[s] that cannot reasonably be expected to be recovered shall be expensed when incurred.

[f-](f) [L]A loan[s] with any of the following provisions may be valued, at the option of the commissioner, at a discounted value[s] which-] that approximates the market value[s] of the loan[s] at the valuation date:

[i-](i) [P]a payment[s] other than in equal installments;

[ii-](ii) [P]a payment period[s] less often than annually; or

[iii-](iii) [I]interest below a conventional rate[s] of return on the date the loan is granted.

[4-](4) Loans Secured By Pledged Securities Or Evidences Of Debt Eligible For Investment Under Section 31A-18-105.

(a) A loan that is [-Loans which are-]adequately secured by a pledge of securities or evidence[s] of debt eligible for investment under Section 31A-18-105 shall be valued at par, if the acquisition was at par.[Further, such loans-]

(b) A loan acquired at a premium or at a discount [are to-]shall be valued at the unpaid principal balance or cost, whichever is less.

[5-](5) Preferred and Guaranteed Stocks.

[a-](a) [Preferred or guaranteed stocks in good standing are to be valued at cost by companies which are maintaining a mandatory securities valuation reserve. Companies not maintaining a mandatory securities valuation reserve shall value such stocks at market value]A company that maintains a mandatory securities valuation reserve shall value preferred or guaranteed stock in good standing at cost.

(b) A company that does not maintain a mandatory securities valuation reserve shall value preferred or guaranteed stock in good standing at market value.

[b-](c) Preferred or guaranteed stock[s] not in good standing [are to-]shall be valued at market value.

[e-](i) Market value, as used for valuation of preferred or guaranteed stock[s], means in accordance with the values listed in ["]Valuation of Securities[". For securities which are-]

(ii) A security traded on a registered national securities exchange[-] but [are-]not listed in [that publication, market value may be established-]Valuation of Securities may establish market value at the most recent published trade value.[-Securities-]

(iii) A security not listed in Valuation of Securities and not actively traded on a major stock exchange shall have a market value [in an amount-]that the insurer can justify to the commissioner.

[d-](d) Preferred or guaranteed stock[s] of an insurance subsidiary shall [ies are to-]be valued [in accordance with the requirements of]under Subsection 31A-17-401(3)(a)[s] and [Subsection R590-116-4.B. of this rule]Section R590-116-5.

[6-](6) Common Stock[s].

[a-](a) Common stock[s-are to-] shall be valued at market value.

(i) Market value, as used for valuation of common stocks, means in accordance with the values listed in ["]Valuation of Securities[". For securities which are-]

(ii) A security traded on a registered national securities exchange[-] but [are-]not listed in [that publication, market value may be established-]Valuation of Securities may establish market value at the most recent published trade value.[-Securities-]

(iii) A security not listed in Valuation of Securities and not actively traded on a registered national securities exchange shall have a market value [in an amount-]that the insurer can justify to the commissioner.

[b-](b) Common stock[s] of an insurance subsidiary shall [ies are to-]be valued [in accordance with the requirements of]under Subsection 31A-17-401(3)(a).

[7-](7) Real Estate.

[a-](a) An investment in real estate [will-]shall be valued at not more than [its-]the reasonable cost of the property plus capitalized permanent improvements less depreciation spread evenly over the life of the property or, at the option of the company, less depreciation computed on any basis permitted under the Internal Revenue Code and regulations.

[b-](b) Property acquired in satisfaction of a debt shall be valued at its fair market value or the amount of debt, including interest, taxes, and expenses incurred as cost in foreclosure, whichever is less.

[8-](8) Loans Upon the Security of the Insurer's Own Policies. [Loans-]A loan upon the security of the insurer's own policies shall be valued at the unpaid loan balance or the policy reserve[s] securing [such-]the loan, whichever is less.

[9-](9) Financial Futures Contracts. [F]A financial futures contract[s], if approved by [Insurance-D]department rule, shall be valued in the manner set forth by the commissioner.

[10-](10)(a) Investment in Foreign Securities. [F]A foreign security[ies] permitted under Subsection 31A-18-105(11)[s] shall be valued as follows:

[a-](i) [Where information is available, at the value published by the NAIC. If the security is payable in a foreign currency the value shall reflect the currency exchange rate]if the value of the security is listed in Valuation of Securities, the market value shall be the listed value[-]; or

[b-](ii) [Where information is not available,]if the value of the security is not listed in Valuation of Securities, the security shall have a market value that the insurer can justify to the commissioner.

NOTICES OF PROPOSED RULES

(b) If the security is payable in a foreign currency, the value shall reflect the currency exchange rate.

~~[(1)]~~ Separate Account Assets. ~~[\$]~~ Each separate account asset[s] shall have a value as required under Subsection 31A-18-102(4).

**R590-116-5. Valuation of a Security Other Than Common Stock Issued by an Insurance Subsidiary.**

~~[B. Value of Securities Other Than Common Stock Issued by an Insurance Subsidiary.]~~ The following provisions ~~[shall]~~ supplement Subsection 31A-17-401(3)(a)~~[s]~~ in controlling the ~~[manner in which]~~ way assets of an insurance subsidiary~~[ies]~~ are valued on the books of the parent insurer~~[s]~~.

~~[(1)]~~ A parent insurer may attribute value to the security of an insurance subsidiary only if a dividend[s] or interest ~~[are]~~ is being paid and payment ~~[can reasonably be]~~ is anticipated to continue.

~~[(2)]~~ The value of a security~~[ies]~~ other than common stock issued by an insurance subsidiary is the lesser of:

~~[a-]~~(a) ~~[F]~~ the present value of future income to be derived under the security~~[ies]~~; or

~~[b-]~~(b) ~~[F]~~ the amount the parent would receive following liquidation of the subsidiary with payment, in full, of ~~[all-]~~ each creditor[s] and holder[s] with senior priority.

~~[(3)]~~ The present discounted value of future income under Subsection ~~[R590-116-4-B.2.a. of this rule]~~ ~~(2)~~(a) shall be determined as follows:

$$NPV = ((CF_1)/((1 + i)^1)) + ((CF_2)/((1 + i)^2)) + (CF_3)/((1 + i)^3) + \dots ((CF_n)/((1 + i)^n))$$

NPV = Net present value

CF = Cash flow

i = Assumed interest rate per period

n = Number of periods

If cash flows remain constant, the following formula may be used:

$$NPV = CF(1 - (1 / (1 + i)^n) / i)$$

~~[(4)]~~ The interest rate used shall be ~~[equal to]~~ Moody's AA Bond rate ~~[given]~~ for a security~~[ies]~~ of substantially equal duration, or another rate ~~[which]~~ that can be justified by the insurer and is accepted by the commissioner.

**R590-116-~~[5]~~6. Separability.**

~~[If any provision of this rule or its application to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of such provision to other persons or circumstances will not be affected.]~~ If any provision of this rule, Rule R590-116, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

**KEY: insurance companies, rules and procedures**

**Date of Last Change: 2022~~[1987]~~**

**Notice of Continuation: January 26, 2017**

**Authorizing, and Implemented or Interpreted Law: 31A-17-401**

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Amendment

**Utah Admin. Code Ref (R no.):** R590-147

**Filing ID**  
54097

**Agency Information**

<b>1. Department:</b>	Insurance	
<b>Agency:</b>	Administration	
<b>Room no.:</b>	Suite 2300	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S 2700 W	
<b>City, state and zip:</b>	Taylorsville, UT 84129	
<b>Mailing address:</b>	PO Box 146901	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6901	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R590-147. Annual and Quarterly Statement Filing Instructions
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
This rule is being changed in compliance with Executive Order No. 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
The majority of the changes are being done to fix style issues to bring this rule text more in line with current rulewriting standards. Other changes make the language of this rule more clear, update the new Section R590-147-5 to use the Department's current language, and remove Section R590-147-7 because this rule is already in force. The changes do not add, remove, or change any regulations or requirements.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature and will not change how the Department functions.

<b>B) Local governments:</b>			
There is no anticipated cost or savings to local governments. The changes are largely clerical in nature and will not affect local governments.			
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):			
There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature and will not affect small businesses.			
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):			
There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature and will not affect non-small businesses.			
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):			
There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.			
<b>F) Compliance costs for affected persons</b> (How much will it cost an impacted entity to adhere to this rule or its changes?):			
There are no compliance costs for any affected persons. The changes are largely clerical in nature.			
<b>G) Comments by the department head on the fiscal impact this rule may have on businesses</b> (Include the name and title of the department head):			
After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses. Jonathan T. Pike, Commissioner			
<b>6. A) Regulatory Impact Summary Table</b> (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other	\$0	\$0	\$0

Persons			
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>B) Department head approval of regulatory impact analysis:</b>			
The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.			

**Citation Information**

<b>7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>
Section 31A-2-201   Section 31A-4-113

**Public Notice Information**

<b>9. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)
<b>A) Comments will be accepted until:</b> 01/03/2022

<b>10. This rule change MAY become effective on:</b> 01/10/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b> Steve Gooch, Public Information Officer	<b>Date:</b> 11/08/2021
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**R590. Insurance, Administration.**

**R590-147. Annual and Quarterly Statement Filing Instructions.**  
**R590-147-1. Authority.**

This rule is promulgated pursuant to Subsection 31A-2-201(3), which authorizes the commissioner to establish by rule specific requirements for filing forms, rates, or reports required by the Utah Insurance Code; Section 31A-2-202, which authorizes the commissioner to require statements, reports and information to be delivered to the department or the National Association of Insurance Commissioners (NAIC) in a form specified by the commissioner; and Section 31A-4-113, which authorizes the commissioner to prescribe by rule the information to be submitted with and form of the annual statement by the commissioner pursuant to Sections 31A-2-201 and 31A-4-113.

**R590-147-2. Purpose and Scope.**

(1) The purpose of this rule is to provide instructions for the filing of insurer annual and quarterly statements, filing an annual statement, a quarterly statement, and any required supplemental schedule[s], exhibit[s], and/or document[s].

(2) This rule applies to an insurer required to file an annual statement or a quarterly statement with the commissioner.

**R590-147-3. Scope.**

This rule applies to all insurers required to file annual and quarterly statements with the commissioner in this state.

**R590-147-4. Definitions.**

(1) For purposes of this rule:

(a) the commissioner adopts the definitions as particularly set forth in Section 31A-1-301; and

(b) "Insurer" includes all licensees who are licensed under Chapters 5, 7, 8, 9, 14 or 15 of Title 31A of the Utah Code. Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:

(1) "Insurer" means a licensee who is licensed under Title 31A, Chapters 5, 7, 8, 9, 14, or 15.

(2) "NAIC" means the National Association of Insurance Commissioners.

**R590-147-5.4. Rule Annual and Quarterly Statement Filings.**

(1) An annual statement, quarterly statement[s], and any required supplemental schedule[s], exhibit[s], and/or document[s] shall be prepared in accordance with according to the latest edition of the NAIC annual and quarterly statement instructions and the Accounting Practices and Procedures Manual published by the NAIC.

(2)(a) An insurer[s] shall file their/its annual statement[s], quarterly statement[s], and any required supplemental schedule[s], exhibit[s], and/or document[s] electronically with the NAIC according to the NAIC annual and quarterly statement instructions. The commissioner may allow insurers that operate only in Utah to file hard copy forms with the department and exempt them from filing electronically with the NAIC.

(b) Domestic insurers ONLY shall additionally file two paper copies of all documents required by Subsection R590-147-5(1) with the department, in accordance with the deadlines established in the NAIC annual and quarterly statement instructions.

(c) A foreign insurer or an alien insurer shall NOT may not file a paper copy[ies] of any document[s] required by

Subsection [R590-147-5](1) with the department, unless specifically requested by the commissioner.

(3) Administrative penalties, authorized by 31A-2-308, may be assessed to any insurer that:

(a) Fails to file an annual statement, quarterly statements, or required supplemental schedules, exhibits, and documents by the dates specified in the NAIC and department annual and quarterly statement instructions, or by the deadline established in any filing extensions granted by the department; or

(b) Fails to file a complete annual or quarterly statement filing.

(4) NAIC and department filing instructions, including due dates, may be found at the following websites: www.naic.org and https://insurance.utah.gov.

**R590-147-6. Separability. Severability.**

If any provision of this rule or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of such provision to other persons or circumstances shall not be affected thereby.

**R590-147-7. Enforcement Date.**

The commissioner will begin enforcing the revised portions of this rule 45 days from the effective date of the rule. If any provision of this rule, Rule R590-147, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

**KEY: insurance**

Date of Last Change: 2022 February 10, 2005

Notice of Continuation: January 9, 2017

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-2-202; 31A-4-113

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R590-149	Filing ID 54098

**Agency Information**

<b>1. Department:</b>	Insurance	
<b>Agency:</b>	Administration	
<b>Room no.:</b>	Suite 2300	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S 2700 W	
<b>City, state and zip:</b>	Taylorsville, UT 84129	
<b>Mailing address:</b>	PO Box 146901	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6901	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Gooch	801-957-	sgooch@utah.gov

9322
Please address questions regarding information on this notice to the agency.

**General Information**

<b>2. Rule or section catchline:</b>
R590-149. Americans with Disabilities Act (ADA) Grievance Procedures
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
This rule is being changed in compliance with Executive Order No. 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
The majority of the changes are being done to fix style issues to bring this rule text more in line with current rulewriting standards. Other changes make the language of this rule more clear and add Sections R590-149-2 and R590-149-10. The changes do not add, remove, or change any regulations or requirements.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature and will not change how the Department functions.
<b>B) Local governments:</b>
There is no anticipated cost or savings to local governments. The changes are largely clerical in nature and will not affect local governments.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature and will not affect small businesses.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature and will not affect non-small businesses.

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

There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.

**F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):**

There are no compliance costs for any affected persons. The changes are largely clerical in nature.

**G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):**

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses. Jonathan T. Pike, Commissioner

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>Net Benefits</b>	<b>Fiscal \$0</b>	<b>\$0</b>	<b>\$0</b>
<b>B) Department head approval of regulatory impact analysis:</b>			
The Commissioner of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.			

**Citation Information**

<b>7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>
Section 31A-2-201

**Public Notice Information**

<b>9. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
<b>A) Comments will be accepted until:</b>	01/03/2022

<b>10. This rule change MAY become effective on:</b>	01/10/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	11/08/2021
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**R590. Insurance, Administration.**

**R590-149. Americans with Disabilities Act [(ADA)]Grievance Procedures.**

**R590-149-1. Authority[and Purpose].**

[(1)]This rule is promulgated by the commissioner pursuant to Section 31A-2-201[(3)(a) and Subsection 63G-3-201(3) of the State Administrative Rulemaking Act. The Insurance Department, pursuant to 28 CFR 35.107, adopts, defines, and publishes within this rule complaint procedures providing for prompt and equitable resolution of complaints filed in accordance with Title II of the Americans With Disabilities Act, as amended].

**R590-149-2. Purpose and Scope.**

[(2)]1 The purpose of this rule is to implement the [provisions of 28 CFR 35, and Title II of the ]Americans [W]with Disabilities Act (ADA), 42 U.S.C. 12101-12213 and 28 CFR 35, which provides that no individual [shall ]may be excluded from participation in or be denied the benefits of the services, programs, or activities of the [Insurance D]department, or be subjected to discrimination by the department because of a disability.

(2) This rule applies to:

(a) a qualified individual; and

(b) the department.

**R590-149-[2]3. Definitions.**

Terms used in this rule are defined in Section 31A-1-301. The definitions in the Americans with Disabilities Act, 42 U.S.C. 12101-12213 and 28 CFR 35, are incorporated by reference. Additional terms are defined as follows:

(1)(a) "[The]ADA [C]coordinator" means [the ]an employee assigned by the commissioner to investigate and facilitate the prompt and equitable resolution of a complaint[s] filed by a qualified [persons with disabilities]individual.

(b) The ADA [C]coordinator may be a representative of the Department of Government Operations, Division of Human Resource Management assigned to the department.

(2) ["Department" means the Insurance Department]"Complainant" means a qualified individual or a qualified individual's authorized representative.

(3)(a) "Designee" means an individual appointed by the commissioner [or a director ]to investigate an allegation[s] of ADA non[-]compliance [in the event ]when the ADA [C]coordinator is unable or unwilling to [conduct an investigation ]investigate for any reason, including a conflict of interest.

(b) A designee does not have to be an employee of the department; however, the designee must have a working knowledge of the responsibilities and obligations required of employers and employees by the ADA.

(4) "Director" means the head of the division of the department affected by a complaint filed under this rule.

(5) "Disability" means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

(6) "Major life activities" includes caring for one's self, performing manual tasks, walking, seeing, hearing, eating, sleeping, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking and working. A major life activity also includes the operation of a major bodily function, such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

(7) "Qualified Individual" means an individual who meets the essential eligibility requirement for the receipt of services or the participation in programs or activities provided by the department. A qualified individual also who, with or without reasonable accommodation, can perform the essential functions of the employment position that individual holds or desires.]

**R590-149-[3]4. [Filing of]Complaint[s].**

(1) Any qualified individual may file a complaint alleging noncompliance with [Title II of the Americans with Disabilities Act, as amended, or the ]the ADA or a federal regulation[s] promulgated thereunder.

(2) [Q]A qualified individual[s] shall file [their ]a complaint[s] with the [department's ]ADA coordinator, unless the complaint alleges that the ADA coordinator [was ]is non-compliant, in which case a qualified individual[s] shall file [their ]a complaint[s] with the [department's ]designee.

(3) [Q]A qualified individual[s] shall file [their ]a complaint[s] within 90 days after the date of the alleged noncompliance to facilitate the prompt and effective consideration of pertinent facts and appropriate remedies; however, the commissioner has the discretion to

direct that the grievance process be utilized to address legitimate complaints filed more than 90 days after alleged noncompliance.

(4) Each complaint shall:

(a) include the qualified individual's name and address;

(b) include the nature and extent of the qualified individual's disability;

(c) describe the department's alleged discriminatory action in sufficient detail to inform the department of the nature and date of the alleged violation;

(d) describe the action and accommodation desired; and

(e) ~~be signed by the complainant~~~~—or by his legal representative~~.

(5) ~~[C]~~A complaint[s] filed on behalf of a class[es] of qualified individuals or a third party[ies] shall describe ~~or~~ and identify by name, if possible, the alleged victims of discrimination.

(6) If ~~the~~ a complaint is not in writing, the ADA coordinator or designee shall ~~transcribe or otherwise~~ reduce the complaint to writing ~~upon receipt of the complaint~~.

(7) By ~~the~~ filing of a complaint or a subsequent appeal, the complainant authorizes ~~necessary parties~~ the ADA coordinator or designee to conduct a confidential review of all relevant information, including:

(a) any record[s] classified as private or controlled under [the Government Records Access and Management Act, Utah Code, Subsection—]Sections 63G-2-302[+(b)] and [Section—]63G-2-304, consistent with [42 U.S.C. 12112(d)(4)(A), (B), and (C) and]42 U.S.C. Section 12112(d)(3)(B) and (C)] and 42 U.S.C. 12112(d)(4)(A), (B), and (C); and

(b) any relevant information otherwise protected by statute, rule, regulation, or other law.

#### **R590-149-~~4~~5. Investigation ~~of Complaint~~.**

(1) The ADA coordinator or designee shall ~~conduct an investigation of—]investigate each complaint received[—The investigation shall be conducted]~~ to the extent necessary to assure all relevant facts are determined and documented~~[—This may include gathering all information listed in Subsection R590-149-3(4) and (7) of this rule if it is not made available by the complainant]~~.

(2)(a) The ADA coordinator or designee may seek assistance from the Attorney General's ~~staff,~~ Office and the ~~department's human resource and budget staff in determining.]~~ Division of Human Resource Management to determine what action, if any, should be taken on the complaint.

(b) The ADA coordinator or designee may also consult with the director of the affected division in making a recommendation.

~~—(3) The ADA coordinator or designee shall consult with representatives from other state agencies that may be affected by the decision, including the Office of Planning and Budget, the Department of Human Resource Management, the Division of Risk Management, the Division of Facilities Construction Management, and the Office of the Attorney General before making any recommendation that would:~~

~~—(a) involve an expenditure of funds beyond what is reasonably able to be accommodated within the applicable line item so that it would require a separate appropriation;~~

~~—(b) require facility modifications; or~~

~~—(c) require reassignment to a different position.]~~

#### **R590-149-~~5~~6. [Issuance of] Decision.**

(1) ~~[W]~~The ADA coordinator or designee shall issue a recommendation to the director within 15 working days after receiving the complaint~~[, the ADA coordinator or designee shall recommend to~~

~~the director in writing or in another acceptable suitable format stating what action, if any, should be taken on the complaint]~~.

(2) If the ADA coordinator or designee is unable to make a recommendation within ~~the~~ 15 working days~~[period]~~, the complainant shall be notified ~~[in writing, or by another acceptable format suitable to the complainant, stating why]~~ that the recommendation is delayed and ~~[what]~~ given an estimate of the additional time ~~[is]~~ needed.

(3) The director may confer with the ADA coordinator or designee and the complainant and may accept or modify the recommendation from the ADA coordinator or designee to resolve the complaint.

(4) The director shall ~~render a—]issue a written~~ decision within 15 working days after the director's receipt of the recommendation from the ADA coordinator or designee.

(5) The director shall take all reasonable steps to implement the decision~~[—The director's decision shall be in writing, or in another accessible format suitable to the complainant, and shall be promptly delivered to the complainant]~~.

(6) The ADA coordinator or designee shall consult with representatives from other state agencies that may be affected by the decision, including the Governor's Office of Planning and Budget, the Division of Human Resource Management, the Division of Risk Management, the Division of Facilities Construction Management, and the Office of the Attorney General before making any recommendation that would require:

(a) an expenditure of funds beyond the applicable budgetary line item;

(b) a facility modification; or

(c) reassigning the qualified individual to a different position.

#### **R590-149-~~6~~7. Appeal[s].**

(1) The complainant may appeal the decision of the director to the commissioner by filing an appeal within ten working days ~~from~~ the ~~of~~ receipt of the director's decision.

(2) The appeal shall be filed in writing, or in another accessible format reasonably suited to the complainant's ability.

(3)(a) The commissioner may name ~~a designee to assist on~~ an assistant to help with the appeal. ~~[The]~~

~~—(b) Neither the director, the ADA coordinator, and the director's designee may not also—, nor the designee may be the commissioner's [designee] assistant for the appeal.~~

(4) ~~[In the appeal the complainant]~~ The appeal shall describe, in sufficient detail, why the director's decision does not effectively address the complainant's ~~[needs]~~ requirements.

(5)(a) The commissioner ~~[or designee]~~ shall review the ADA coordinator's recommendation, the director's decision, and the ~~[points]~~ issues raised on appeal prior to reaching a decision.

(b) The commissioner may direct additional investigation, as necessary.

(6) The commissioner shall consult with representatives from any other state agency[ies] that ~~would—]may~~ be affected by the decision, ~~[including the Office of Planning and Budget, the Department of Human Resource Management, the Division of Risk Management, the Division of Facilities Construction Management, and the Office of the Attorney General before making any decision that would:~~

~~—(a) involve an expenditure of funds beyond what is reasonably able to be accommodated within the applicable line item so that it would require a separate appropriation;~~

~~—(b) require facility modifications; or~~

~~—(c) require reassignment to a different position]~~ as provided in Subsection R590-149-6(6).

NOTICES OF PROPOSED RULES

([6]7) The final written decision shall be issued by the commissioner within ~~[fifteen]~~15 working days ~~[after]~~of receiving the ~~[complainant's appeal and shall be in writing or in another accessible format suitable to the complainant, and shall be promptly delivered to the complainant]~~ appeal.

([7]8) If the commissioner ~~[or designee]~~is unable to reach a final decision within ~~[the fifteen working day period]~~15 working days, ~~[he shall notify the complainant in writing or by another accessible format suitable to the complainant, why]~~the qualified individual will be notified that the final decision is being delayed and given an estimate of the additional time needed to reach a decision.

**R590-149-[7]8. [Classification of]Records Classification.**

(1)(a) ~~[R]~~A record[s] created in administering this rule ~~[are]~~is classified as "protected" under ~~[Subsection]~~Section 63G-2-305~~(9), (22), (24), and (25)]~~.

([2]b) After ~~[issuing]~~a decision is issued under Section R590-149-~~[5]6~~ or a final decision ~~[up]~~on appeal under Section R590-149-~~[6]7~~, any portion[s] of the record pertaining to the [complainant's] qualified individual's medical condition shall remain classified as "private" [as defined] under Section 63G-2-302[(1)(b)] or "controlled" [as defined in] under Section 63G-2-304, [as] consistent with 42 U.S.C. 12112(d)(4)(A), (B), and (C) and 42 U.S.C. 12112(d)(3)(B) and (C)[, at the option of the ADA coordinator].

~~[(a) The]~~(2) Notwithstanding Subsection (1), the written decision of the ~~[division]~~director or commissioner ~~[shall be]~~is classified as "public" ~~[information. All other records, except "controlled" records under Subsection R590-149-7(2), shall be classified as "private."]~~under Section 63G-2-301.

**R590-149-[8]9. Relationship to Other Laws.**

This rule does not prohibit or limit the use of any remedy[ies] available to an individual[s] under:

(1) ~~[the state Anti Discrimination Complaint Procedures Section 67-19-32 and 34A-5-107]~~Title 34A, Chapter 5, Utah Antidiscrimination Act;

(2) ~~[the Federal ADA Complaint Procedures 28 CFR 35.170 through 28 CFR 35.178]~~the Americans with Disabilities Act, 42 U.S.C. Section 12101-12213; or

(3) any other ~~[Utah S]~~state or federal law that provides equal or greater protection for the rights of an individual[s] with a disability~~[ies]~~.

**R590-149-10. Severability.**

If any provision of this rule, Rule R590-149, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

**KEY:** insurance, ADA

**Date of Last Change:** 2022[August 2, 2011]

**Notice of Continuation:** June 5, 2017

**Authorizing, and Implemented or Interpreted Law:** 63G-3-201(2)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R590-150	Filing ID 54099

**Agency Information**

<b>1. Department:</b>	Insurance	
<b>Agency:</b>	Administration	
<b>Room no.:</b>	Suite 2300	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S 2700 W	
<b>City, state and zip:</b>	Taylorsville, UT 84129	
<b>Mailing address:</b>	PO Box 146901	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6901	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R590-150. Commissioner's Acceptance of Examination Reports
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
This rule is being changed in compliance with Executive Order No. 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
The majority of the changes are being done to fix style issues to bring this rule text more in line with current rulewriting standards. Other changes make the language of this rule more clear, add Section R590-150-3, and update the new Section R590-150-5 to use the Department's current language. The changes do not add, remove, or change any regulations or requirements.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature and will not change how the Department functions.

**B) Local governments:**

There is no anticipated cost or savings to local governments. The changes are largely clerical in nature and will not affect local governments.

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

There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature and will not affect small businesses.

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

There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature and will not affect non-small businesses.

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

There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for any affected persons. The changes are largely clerical in nature.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses. Jonathan T. Pike, Commissioner

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

Regulatory Impact Table			
Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

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

**B) Department head approval of regulatory impact analysis:**

The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 31A-2-201	Section 31A-2-203	
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 01/03/2022

**10. This rule change MAY become effective on:** 01/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	11/08/2021
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**R590. Insurance, Administration.**

**R590-150. Commissioner's Acceptance of Examination Reports.**

**R590-150-1. Authority.**

This rule is ~~issued pursuant to the general rule making authority vested in the commissioner by Section 31A-2-201, Utah Code, and pursuant to Subsection 31A-2-203(4), Utah Code~~ promulgated by the commissioner pursuant to Sections 31A-2-201 and 31A-2-203.

**R590-150-2. Purpose and Scope.**

(1) The purpose of this rule is to identify the examination reports ~~that~~ acceptable to the commissioner ~~will accept in lieu of his own examination and report~~.

(2) This rule applies to ~~all~~ an insurer[s] licensed under Title 31A, Chapter[s] 5, 9, ~~and~~ or 14 ~~of Title 31A of the Utah Code~~.

**R590-150-3. Definitions.**

Terms used in this rule are defined in Section 31A-1-301.

**R590-150-4. Rule.**

~~In lieu of an examination under Section 31A-2-203 of the Utah Code, of any domestic, foreign or alien insurer licensed in this state, the commissioner may accept an examination report on the company as prepared by the insurance department for the company's state of domicile or port of entry until January 1, 1994. Thereafter, such reports may only be accepted if: An examination report prepared by the state of domicile or port of entry state will be accepted in lieu of an examination under Section 31A-2-203 if:~~

~~\_\_\_\_\_ (1) the insurance department that prepared the report was, at the time of the examination, accredited under the National Association of Insurance Commissioners' Financial Regulation Standards and Accreditation Program; ~~or~~~~

~~\_\_\_\_\_ (2) the examination is performed under the supervision of an accredited insurance department; or~~

~~\_\_\_\_\_ (3) the examination is performed with the participation of one or more examiners ~~who are~~ employed by an accredited ~~state~~ insurance department ~~and~~ who, after a review of the examination work papers and report, state under oath that the examination was performed in a manner consistent with the standards and procedures required by their insurance department.~~

**R590-150-~~4~~5. ~~Separability~~ Severability.**

~~If any provision of this rule or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of such provision to other persons or circumstances may not be affected thereby. If any provision of this rule, Rule R590-150, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.~~

**KEY: insurance companies**

**Date of Last Change: 2022~~1992~~**

**Notice of Continuation: January 9, 2017**

**Authorizing, and Implemented or Interpreted Law: 31A-2-203(4)**

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Repeal

**Utah Admin. Code Ref (R no.):** R590-151

**Filing ID**  
**54095**

**Agency Information**

<b>1. Department:</b>	Insurance	
<b>Agency:</b>	Administration	
<b>Room no.:</b>	Suite 2300	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S 2700 W	
<b>City, state and zip:</b>	Taylorsville, UT 84129	
<b>Mailing address:</b>	PO Box 146901	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6901	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Gooch	801-957-9322	sgooch@utah.gov

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

**General Information**

**2. Rule or section catchline:**

R590-151. Records Access Rule

**3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):**

This rule is being repealed in compliance with Executive Order No. 2021-12. During the review of this rule, the Department of Insurance determined that this rule was no longer necessary and should be repealed.

**4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):**

This rule is being repealed in its entirety. Government record requests are already provided for and regulated by statute.

**Fiscal Information**

**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

**A) State budget:**

There is no anticipated cost or savings to the state budget. This rule is being repealed and had no fee associated with it.

**B) Local governments:**

There is no anticipated cost or savings to local governments. This rule is being repealed and had no fee associated with it.

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

There is no anticipated cost or savings to small businesses. This rule is being repealed and had no fee associated with it.

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

There is no anticipated cost or savings to non-small businesses. This rule is being repealed and had no fee associated with it.

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

There is no anticipated cost or savings to any other persons. This rule is being repealed and had no fee associated with it.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for any affected persons. This rule is being repealed and there is no cost to comply.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this rule repeal will not result in a fiscal impact to businesses. Jonathan T. Pike, Commissioner

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

Regulatory Impact Table			
Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

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

**B) Department head approval of regulatory impact analysis:**

The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 31A-2-201

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 01/03/2022

**10. This rule change MAY become effective on:** 01/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	11/08/2021
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**R590. Insurance, Administration.**

~~[R590-151. Records Access Rule.~~

~~**R590-151-1. Authority.**~~

~~— This rule is adopted pursuant to the provisions of Chapter 2, Title 63G, the Government Records Access and Management Act (GRAMA), specifically Subsections 63G-2-204(2), and 63A-12-104(2).~~

~~**R590-151-2. Purposes.**~~

~~— The purposes of this rule are to define how record requests are to be made to the Insurance Department and to define how an individual may contest the accuracy and completeness of records concerning that individual which are maintained by the department.~~

~~**R590-151-3. Rule.**~~

~~— (1) Making a Request for Access to Records.  
 (a) All record requests made under the provisions of GRAMA shall be made in writing by completing the online Request Form available through Utah's Open Record Portal at <https://openrecords.utah.gov>.~~

~~— (b) The department's response may be delayed if a submitted request is incomplete.~~

~~— (2) The department may, at its discretion, waive the requirement for a written request if the records requested are public and readily accessible, or for other good cause shown.~~

~~— (3) Appeals From Initial Decisions. All appeals from an initial decision by the department, which denies access to a record, shall be addressed to the insurance commissioner and shall conform to the requirements of Section 63G-2-401. The authority to order disclosure or nondisclosure is delegated to the head of the division which maintains the record or to any other person the commissioner may designate from time to time.~~

~~— (4) Contesting Accuracy or Completeness of a Record.~~

~~— (a) Any request pursuant to Subsection 63G-2-603(2) shall be directed to the records officer.~~

~~— (b) Consideration of the request shall be conducted as an informal adjudicative proceeding unless converted to a formal adjudicative proceeding by the presiding officer.~~

~~— (c) A request to amend findings of fact in any administrative proceeding where the time for appeal has expired shall be denied. These types of records shall be maintained in their original form to protect the public interest and the integrity of the Administrative Records. Section 63G-2-603, may not apply.~~

~~**R590-151-4. Severability.**~~

~~— If any provision or clause of this rule or the application of it to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provision of this rule are declared to be severable.~~

~~**KEY: insurance records access**~~

~~**Date of Last Change: December 8, 2017**~~

~~**Notice of Continuation: July 12, 2017**~~

~~**Authorizing, and Implemented or Interpreted Law: 63G-2-204; 63A-12-104**~~

~~]~~

NOTICE OF PROPOSED RULE		
<b>TYPE OF RULE:</b> Amendment		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R590-154</b>	<b>Filing ID 54100</b>

**Agency Information**

<b>1. Department:</b>	Insurance	
<b>Agency:</b>	Administration	
<b>Room no.:</b>	Suite 2300	
<b>Building:</b>	Taylorville State Office Building	
<b>Street address:</b>	4315 S 2700 W	
<b>City, state and zip:</b>	Taylorville, UT 84129	
<b>Mailing address:</b>	PO Box 146901	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6901	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b> <b>Email:</b>	
Steve Gooch	801-957-9322	sgooch@utah.gov

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

**General Information**

<b>2. Rule or section catchline:</b>
R590-154. Unfair Marketing Practices Rule; Misleading Names
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
This rule is being changed in compliance with Executive No. Order 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
The majority of the changes are being done to fix style issues to bring this rule text more in line with current rulewriting standards. Other changes make the language of this rule more clear, update the new Section R590-154-14 to use the Department's current language, and remove Section R590-154-15 because the rule is already in force. The changes do not add, remove, or change any regulations or requirements.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
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<b>A) State budget:</b>			
There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature and will not change how the Department functions.			
<b>B) Local governments:</b>			
There is no anticipated cost or savings to local governments. The changes are largely clerical in nature and will not affect local governments.			
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):			
There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature and will not affect small businesses.			
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):			
There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature and will not affect non-small businesses.			
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):			
There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.			
<b>F) Compliance costs for affected persons</b> (How much will it cost an impacted entity to adhere to this rule or its changes?):			
There are no compliance costs for any affected persons. The changes are largely clerical in nature.			
<b>G) Comments by the department head on the fiscal impact this rule may have on businesses</b> (Include the name and title of the department head):			
After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses. Jonathan T. Pike, Commissioner			
<b>6. A) Regulatory Impact Summary Table</b> (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>B) Department head approval of regulatory impact analysis:</b>			
The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.			

**Citation Information**

<b>7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Section 31A-2-201		

**Public Notice Information**

<b>9. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
<b>A) Comments will be accepted until:</b>	01/03/2022

<b>10. This rule change MAY become effective on:</b>	01/10/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	11/08/2021
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**R590. Insurance, Administration.**

**R590-154. Unfair Marketing Practices Rule; Misleading Names.**

**R590-154-1. Authority.**

This rule is ~~adopted pursuant to Subsection 31A-2-201(3) in which the commissioner is empowered to adopt rules to implement the provisions of the Utah Insurance Code, Section 31A-23a-402, which provides that the commissioner may find certain practices to be misleading, deceptive, unfairly discriminatory, or unreasonably restrain competition, and to prohibit them by rule, and Subsection 31A-23a-110(2), which provides that a licensee may do business under a name other than the licensee's legal name by notifying the commissioner~~ promulgated by the commissioner pursuant to Section 31A-2-201.

**R590-154-2. Purpose and Scope.**

(1) The purpose of this rule is to provide guidance to a ~~[H]~~ licensee[s] regarding unfair marketing practices.

(2) This rule applies to ~~[all insurance producers, limited lines producers, consultants and insurers licensed]~~ a licensee under Title 31A, ~~[Utah]~~ Insurance Code.

**R590-154-3. Definitions.**

Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:

~~\_\_\_\_\_ (1) "Licensee" means a person who holds a license~~, as used in this rule, all individual producers, all agency producers, all individual limited line producers, all agency limited line producers, all individual consultants, all agency consultants, and all insurers].

**R590-154-4. Prohibited Practices Findings.**

The commissioner finds that each ~~[of the]~~ practice[s] prohibited in this rule constitutes a misleading, deceptive, or unfairly discriminatory practice ~~[s or]~~ that unreasonably restrains competition, except as specifically allowed in this rule.

**R590-154-5. Licensee Name.**

(1) A licensee ~~[licensed under the Utah Insurance Code shall]~~ may not use any name that ~~[is]~~:

(a) is misleading or deceptive;

(b) is likely to be mistaken for another licensee already in business; or

(c) implies association or connection with any other organization where actual bona fide association or connection does not exist.

(2) "Insurance consulting," "insurance consultants" or similar words shall only be used if the licensee is licensed as a consultant.

(3) A licensee shall be licensed using the licensee's legal name.

~~(4) [(a) Section 31A-23a-110(2) permits a licensee to use an assumed name by notifying the commissioner.~~

~~(b) In order to give notice of an assumed name as required by Section 31A-23a-110(2), the licensee shall comply with R590-244-13.~~

~~(5) A licensee may use its legal name~~, or an assumed name ~~[provided]~~ if the commissioner is ~~[properly]~~ notified ~~[of the assumed name]~~.

**~~R590-154-6. [Sale, Solicitation, or Negotiation of Insurance; Consultation] Selling, Soliciting, or Negotiating for Insurance or Advising or Consulting About Insurance.~~**

~~(1) [A licensee shall not, orally or in writing, fail to disclose that the licensee is an insurance licensee.~~

~~(2) A licensee shall not use or imply license types or lines of authority not held by the licensee.~~

~~(3) An individual licensee may only use the name of an agency licensee if the individual licensee is designated to act under the agency's license.~~

~~(4) An individual licensee may not sell, solicit, or negotiate insurance; or consult or advise for an agency licensee unless the individual licensee is designated to act under the agency's license. [When selling, soliciting, or negotiating for insurance or advising or consulting about insurance, a licensee shall:~~

~~(a) disclose that the licensee is an insurance licensee; and~~

~~(b) use the name of the agency licensee if the individual licensee is designated to act under an agency's license.~~

~~(2) When selling, soliciting, or negotiating for insurance or advising or consulting about insurance, a licensee may not:~~

~~(a) use or imply a license type or line of authority not held by the licensee; and~~

~~(b) sell, solicit, or negotiate insurance or consult or advise for an agency licensee unless the individual licensee is designated to act under the agency's license.~~

**R590-154-7. Claiming or Representing Department Approval.**

(1) A licensee may not represent, either directly or indirectly, that the department, the commissioner, or any employee of the department, has approved, reviewed, or endorsed any marketing program, insurance product, insurance company, practice, or act.

(2) A licensee may report:

(a) the ~~[fact of the]~~ filing of any form, financial report, or other document with the department~~];~~ or ~~[of]~~

(b) any licensure, examination, or other action involving the department~~];~~ or the commissioner ~~[but]~~.

(3) A licensee may not misrepresent the ~~[#]~~ effect or import of any item reported under Subsection (2).

**R590-154-8. [Bartering for Insurance.**

~~Any licensee bartering for the sale of insurance or an annuity contract shall fully document the receipt of goods, services or other thing of value, establishing the value of the thing received and how the value was established, from whom received, the date received, and the premium cost of the insurance or annuity contract bartered for, and shall retain said documentation for three years following the expiration of the policy period or bartering transaction, whichever is longer. Any licensee bartering for the sale of an insurance or annuity contract shall disclose at the time of application to the insurer said bartering arrangement.~~

**~~R590-154-9. Prohibited Insurance Sales Tie Ins] Unfair Inducements.~~**

~~(1) A [M] multi-level marketing program[s], investment program[s], membership[s], or other similar program[s], designed or represented to produce or provide funds to pay [all or] any part of the cost of insurance constitutes an [illegal] unfair inducement.~~

~~(2) A [This does not preclude the provision of insurance through a] bona fide employee benefit[s] program is not an unfair inducement.~~

**R590-154-[10]9. Premium Reduction Through Commissions or Consulting Fees.**

(1) A licensee ~~[shall] may~~ not give or offer to give a premium reduction ~~[by means of] through~~ a commission or a consulting fee back to the insurer for any purpose, including competition, unless the reduction is for expense savings and is justified by a reasonable standard and with reasonable accuracy. ~~[The]~~

(2)(a) An insurer's underwriting files must document ~~[the]~~ any savings ~~[in order]~~ to enable the commissioner to verify compliance. ~~[This]~~

(b) The documentation must demonstrate legitimate expense savings realized by the insurer and its producer.

**R590-154-[11]10. Prohibited Financing Arrangements.**

A licensee may not obtain or arrange for third party financing of premium without the knowledge and consent of the insured.

**R590-154-[12]11. Acting as [A] Licensee in Other Jurisdictions.**

A resident licensee may not sell, solicit, or negotiate insurance or advise or consult about insurance in another jurisdiction unless licensed or permitted by law to do so in that jurisdiction.

**R590-154-[13]12. Use of Comparative Information.**

(1) ~~[Every]~~ An insurer marketing insurance in ~~[the State of]~~ Utah shall establish written marketing procedures to assure that any comparison of insurance contracts, annuities, or insurance companies by its producers will be fair and accurate.

(2) A licensee may not use any published rating information regarding an insurer in connection with the marketing of any insurance contract or annuity unless that person also provides at the same time an explanation of what the rating means, as defined by ~~[the]~~ a credit rating [service] agency.

**R590-154-[14]13. Disclosure of Insurer in Group Insurance.**

~~[Every]~~ A certificate of insurance or booklet describing coverage of a group insurance policy shall prominently state on the cover of the certificate or booklet the legal name and address of the actual insurer.

**R590-154-[15. Enforcement Date.**

~~The commissioner shall begin enforcing the revised provisions of this rule on the rule's effective date.~~

**R590-154-16]14. Severability.**

~~[If any provision of this rule or the application to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provision of this rule are declared to be severable.]~~ If any provision of this rule, Rule R590-154, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

**KEY:** insurance, unfair marketing practices, misleading names

**Date of Last Change:** ~~2022~~ January 15, 2016

**Notice of Continuation:** March 14, 2018

**Authorizing, and Implemented or Interpreted Law:** 31A-2-201; 31A-23a-402; 31A-23a-110

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Amendment

<b>Utah Admin. Code Ref (R no.):</b>	<b>R592-14</b>	<b>Filing ID</b>	<b>54101</b>
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**Agency Information**

<b>1. Department:</b>	Insurance		
<b>Agency:</b>	Title and Escrow Commission		
<b>Room no.:</b>	Suite 2300		
<b>Building:</b>	Taylorsville State Office Building		
<b>Street address:</b>	4315 S 2700 W		
<b>City, state and zip:</b>	Taylorsville, UT 84129		
<b>Mailing address:</b>	PO Box 146901		
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6901		
<b>Contact person(s):</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Steve Gooch	801-957-9322	sgooch@utah.gov	

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

**General Information****2. Rule or section catchline:**

R592-14. Delay or Failure to Record Documents and the Insuring of Properties with the False Appearance of Unmarketability as Unfair Title Insurance Practices

**3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):**

This rule is being changed in compliance with Executive Order No. 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended. The Title and Escrow Commission approved these changes in a November 8, 2021, meeting by a vote of 3 to 0.

**4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):**

The majority of the changes are being done to fix style issues to bring this rule text more in line with current rulewriting standards. Others are changes to make the language of this rule more clear. The new Section R592-14-5 is being updated to use the Department's current language and the current Section R592-14-5 is being removed because this rule is currently being enforced. The changes do not add, remove, or change any regulations or requirements.

**Fiscal Information**

**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

**A) State budget:**

There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature and will not change how the Department functions.

**B) Local governments:**

There is no anticipated cost or savings to local governments. The changes are largely clerical in nature and will not affect local governments.

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

There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature and will not affect small businesses.

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

There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature and will not affect non-small businesses.

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

There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for any affected persons. The changes are largely clerical in nature.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses. Jonathan T. Pike, Commissioner

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

**Regulatory Impact Table**

Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0

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

**B) Department head approval of regulatory impact analysis:**

The Commissioner of the Department of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Subsection	Subsection	
31A-2-404(2)	31A-23a-406(8)	

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 01/03/2022

**10. This rule change MAY become effective on:** 01/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency

must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	11/08/2021
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**R592. Insurance, Title and Escrow Commission.**

**R592-14. [Delay or Failure to Record Documents and the Insuring of Properties with the False Appearance of Unmarketability as Unfair Title Insurance Practices]Unfair or Deceptive Acts or Practices Affecting Title to Real Property.**

**R592-14-1. Authority.**

This rule is promulgated by the Title and Escrow Commission pursuant to ~~[Section]~~Subsections 31A-2-404(2) and 31A-23a-406(8).

**R592-14-2. Purpose and Scope.**

(1) The purpose of this rule is to ~~[prohibit intentional delay, neglect or refusal by insurers, through their agents, to record or deliver for recording documentation necessary to support policy insuring provisions, resulting in the false appearance of unmarketability, in the record only, of property which would otherwise be marketable. This practice is deemed to be an unfair or deceptive act or practice detrimental to free competition in the business of insurance and injurious to the public]~~identify a misleading, unfair, or deceptive act or practice affecting title to real property.

(2) This rule applies to a ~~[H]~~ title insurance company~~[ers]~~, an agency title insurance producer~~[s]~~, and an individual title insurance producer~~[s]~~.

**R592-14-3. Definitions.**

~~[For the purpose of this rule, the Commission adopts the definitions as particularly set forth in Section 31A-1-301 and in addition the following]~~Terms used in this rule are defined in Sections 31A-1-301 and 31A-2-402. Additional terms are defined as follows:

~~[A-]~~(1) "Document" means ~~[any instrument in writing]~~ a written instrument that:

(a) relates~~[relating]~~ to real property described in ~~[any]~~ a title insurance policy, contract, or commitment~~[s]~~; and

(b) ~~[reasonably required for the support of the insuring provisions]~~is required to support an insurance provision in a policy.

~~[B-]~~(2) "Record" means to cause to be delivered to the county recorder, or other appropriate public official~~[as may be appropriate]~~, ~~[any]~~ a document in the possession or control of ~~[any title insurance company or title insurance agent for which]~~ a title insurance company, an agency title insurance producer, and an individual title insurance producer when a request to record has been made by an insured party, a title insurance company, an agency title insurance producer, or an individual title insurance ~~[agent]~~producer.

**R592-14-4. [Definition and Classification of Unfair or Deceptive Practices and Material Inducements]Prohibited Acts or Practices Affecting Title to Real Property.**

~~[A- Any knowing conduct by a title insurance company or title insurance agent which results in the failure, neglect, refusal to record, or to obtain for recording, any document which, unless recorded, results in the apparent unmarketability of title or a title which may not be insurable by another insurer, is defined as an unfair or deceptive act or practice as prohibited by Section 31A-23a-402.~~

~~B. The issuance or agreement to issue title insurance, or the affirmation of current marketability of title, when the possible recording of documents of title has not occurred, and the record does not manifest a title which would be insurable according to generally accepted title insurance standards, is classified and proscribed as an advantage and material inducement to obtaining title insurance business as prohibited under Section 31A-23a-402(2)(e)(i)(D)]~~A title insurance company, an agency title insurance producer, and an individual title insurance producer are prohibited from engaging in the following unfair or deceptive acts or practices:

(1) knowingly failing to obtain a document for recording or knowingly failing to record a document that results in unmarketable or uninsurable title to real property; or

(2) issuing or agreeing to issue title insurance, or affirming current marketability of title to real property when:

(a) necessary documents for title have not been recorded; and

(b) the record does not manifest an insurable title, according to generally accepted title insurance standards.

**R592-14-5. [Enforcement Date.**

~~The commissioner will begin enforcing this rule upon the rule's effective date.~~

**R592-14-6. [Severability.**

~~[If any provision or clause of this rule or the application of it to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of this provision to other persons or circumstances may not be affected by it]~~If any provision of this rule, Rule R592-14, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

**KEY: insurance law**

**Date of Last Change: 2022[August 9, 2011]**

**Notice of Continuation: January 9, 2017**

**Authorizing, and Implemented or Interpreted Law: 31A-2-404**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R634-3-3	Filing ID 54116

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Administration	
<b>Street address:</b>	1594 W North Temple	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tyler Thompson	801-510-7062	tylerthompson@utah.gov

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

**General Information**

<b>2. Rule or section catchline:</b>
R634-3-3. Definitions
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
Newly published research has necessitated a change of definition for "functional habitat": Dahlgren, D.K., Messmer, T.A., Crabb, B.A., Kohl, M.T., Frey, S.N., Thacker, E.T., Larsen, R.T. and Baxter, R.J. (2019), Sage-grouse breeding and late brood-rearing habitat guidelines in Utah. Wildl. Soc. Bull., 43: 576-589. doi:10.1002/wsb.1029
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
This rule change will amend the definition of "functional habitat" from a blanket 10% required canopy of sagebrush cover to a more nuanced definition that makes recommended canopy cover values for differing habitat clusters as defined in the Utah Conservation Plan for Greater Sage-grouse. 7% for low habitat cluster, 14% for Wasatch habitat cluster and 16% for Parker habitat cluster.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The proposed rule amendment makes a small change to the requirements for compensatory mitigation credits to be created. These changes can be initiated within the current workload and resources of the Department of Natural Resources (DNR); therefore, DNR determines that this amendment does not create a cost or savings impact to the state budget or the DNR's budget since the changes will not increase workload and can be carried out with existing budget.
<b>B) Local governments:</b>
Since the proposed amendment only makes small change to the definition of "functional habitat" this filing does not create any direct cost or savings impact to local governments. Nor are local governments indirectly impacted because this rule change does not create a situation requiring services from local governments.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
The proposed rule amendment will not directly impact small businesses nor is there a service required of them.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>

The proposed rule amendments will not directly impact non-small businesses because a service is not required of them.																																
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):</b>																																
The proposed amendment change may make it easier for persons to achieve the status of "functional habitat" following a credit generation project or creation of a conservation easement in occupied sage grouse habitat. These credits can then be enrolled and sold through DNR's sage-grouse compensatory mitigation program.																																
<b>F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):</b>																																
The proposed amendment change may reduce the cost for persons of maintaining the active status of any created and enrolled mitigation credits in DNR's sage-grouse compensatory mitigation program as it lowers the amount of sagebrush cover in many areas of the state that must be maintained before a re-treatment is required.																																
<b>G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):</b>																																
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Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>B) Department head approval of regulatory impact analysis:</b>			
The Executive Director of the Utah Department of Natural Resources, Brian Steed, has reviewed and approved this fiscal analysis.			

**Citation Information**

<b>7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Section 79-2-501		

**Public Notice Information**

<b>9. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
<b>A) Comments will be accepted until:</b>	01/03/2022

<b>10. This rule change MAY become effective on:</b>	01/10/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Brian Steed, DNR Executive Director	<b>Date:</b>	11/15/2021
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**R634. Natural Resources, Administration.  
R634-3. Compensatory Mitigation Program.  
R634-3-3. Definitions.**

(1) "Agreement Fee" means a sum of money set by the Legislature and paid by a Credit Provider upon entering into a Term

Mitigation Agreement or Conservation Bank Agreement with the Department to offset the Department's costs in administering the Agreement.

(2) "Application Fee" means a sum of money set by the Legislature and paid by an applicant to the Department to offset the cost of processing a compensatory mitigation application submitted to the Department.

(3) "Area of Permanent Disturbance" means the area within a spatial polygon circumscribing the actual permanently disturbed area directly impacting sage-grouse or its habitat.

(4) "Baseline" means the pre-existing condition of a defined project area, prior to commencing any Credit Generation Project.

(5) "Bank Manager" means the person(s) or entity responsible for managing the Bank Property and implementing the terms and requirements contained in the Conservation Bank Agreement for the long-term conservation of sage-grouse habitat.

(6) "Bank Property" means permanently protected real property included in or devoted to the development of a Conservation Bank.

(7) "Compensatory Mitigation" means the restoration or establishment of sage-grouse habitat or permanent protection of existing occupied habitat to offset the unavoidable adverse impacts which remain following permanent disturbance to sage grouse habitat.

(8) "Compensatory Mitigation Program" means the sage-grouse habitat mitigation program created by Title 79, Chapter 2, Part 5 of the Utah Code and this Rule.

(9) "Conservation Bank" means a site or suite of sites of at least 640 contiguous acres established under a Conservation Bank Agreement with the Department that provides ecological functions and services for sage-grouse, expressed as Credits that are conserved and managed in perpetuity and used to offset impacts to sage-grouse habitat expressed as Debits, occurring elsewhere.

(10) "Conservation Bank Agreement" means the legal document for the establishment, operation and use of a conservation bank.

(11) "Conservation Easement" means an easement, covenant, restriction, or condition in a deed, will, or other instrument signed by or on behalf of the record owner(s) of the underlying real property and is an interest in land that runs with the land benefited or burdened by the easement for the purpose of preserving and maintaining land as sage-grouse habitat or Corridors. To be valid, a Conservation Easement must comply with the "Land Conservation Easement Act" in Utah State Code, Title 57 Chapter 18, as amended, which terms and requirements are incorporated herein by reference.

(12) "Corridor" means an area of land that facilitates sage-grouse movement between two or more areas of Occupied Habitat containing less than 1% canopy cover in conifers and at least 15% ground cover in perennial grasses, shrubs, and forbs, and is at least 100 acres in size with a width of at least 2000 feet.

(13) "Credit" means an acre of Functional Habitat or Corridor lands created or restored or an acre of Occupied Habitat preserved by a Credit Provider that may be transferred to a Credit Buyer to offset impacts of Permanent Disturbances and which represents the value in Compensatory Mitigation activities.

(14) "Credit Buyer" means any person who purchases Credits to offset the impacts of permanent disturbance to sage-grouse habitat.

(15) "Credit Exchange Service" means a tool created by the Department to track the development, maintenance and transfer of Credits.

(16) "Credit Generation Project" means any planned project implemented by a Credit Provider or a designee within any SGMA to

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create or restore Functional Habitat or Corridors or preserve Occupied Habitat to generate Credits.

(17) "Credit Maintenance" means the actions required to ensure that Credit acreage continues to operate as Functional Habitat, Corridors or Occupied Habitat for the duration of the disturbance it was intended to offset.

(18) "Credit Provider" means any person or entity that creates or restores Functional Habitat or Corridor(s) or preserves occupied habitat to generate Credits to be transferred utilizing the Credit Exchange Service.

(19) "Credit Transfer Fee" means a sum of money set by the Legislature and paid by a Credit Buyer to the Department when a Credit Provider transfers Credits to a Credit Buyer to offset the Department's costs in administering this Program.

(20) "Debit" means an acre of sage-grouse habitat permanently disturbed in a SGMA for which Compensatory Mitigation is applicable.

(21) "Department" means the Utah Department of Natural Resources, the agency responsible for administering the Compensatory Mitigation Program.

(22) "Durability" means the ability for mitigation measures to remain effective for a period of time that is at least as long as the impacts from the permanent disturbance that the mitigation is designed to offset.

(23) "Functional Habitat" means any sage-grouse habitat, created through a Credit Generation Project, contiguous with existing Occupied Habitat, and which includes a live sagebrush canopy cover of at least ~~14~~7% (Low habitat cluster), 14% (Wasatch habitat cluster), or 16% (Parker habitat cluster) and no more than 1% canopy cover of conifer trees over 0.5 meters in height. Low, Wasatch and Parker Habitat clusters are described in the Utah Conservation Plan for Greater Sage-grouse.

(24) "Habitat" means the aggregation of Seasonal Habitats used by sage-grouse during their yearly life-cycle.

(25) "In-lieu Fee" means money provided to the State, at the direction of a regulatory agency, to be used for restoration and enhancement of sage-grouse habitat, with the goal to create or restore Functional Habitat that satisfies Compensatory Mitigation requirements to offset Permanent Disturbance.

(26) "Mitigation Ratio" means the ratio of Credits needed by a Credit Buyer or produced by the State to offset any Permanent Disturbance within sage-grouse habitat. Where a regulatory agency is involved, the agency establishes the mitigation ratio but it is recommended that any person causing Permanent Disturbance to an acre of sage-grouse habitat should provide four acres of Functional Habitat, Protected Habitat, or Corridors as a proper Mitigation Ratio to offset indirect impacts from disturbance and account for differences in habitat quality without conducting a detailed analysis of either factor.

(27) "Occupied Habitat" means any Habitat utilized by Sage-grouse during any portion of their annual lifecycle.

(28) "Permanent Disturbance" means a human caused action that results in a loss of sage-grouse Habitat for a period of five or more years and includes all areas where the direct effects of the action could be expected to disrupt the common activities of sage-grouse for a period of five years or more.

(29) "Plan" means the current Conservation Plan for Greater Sage-grouse in Utah.

(30) "Program Administrator" means the Executive Director of the Department, or their designee, with authority to establish, operate and manage the Compensatory Mitigation Program.

(31) "Project Area" means the geographic boundary of any Credit Generation Project.

(32) "Protected Habitat" means an area of Occupied Habitat that is preserved from Permanent Disturbance through a Conservation Easement for at least 20 years and is maintained as suitable habitat for the length of the easement.

(33) "Remedial Action" means any corrective measures which a Credit Provider is required to take to ameliorate any injury or adverse impact to Credits or Transferred Credits to ensure long-term Durability.

(34) "Reserve Pool" means a pool of Credits, managed by the Program Administrator or a Bank Manager, intended to cover risks of potential Reversals on any Project Area.

(35) "Reversal" means a Compensatory Mitigation Credit that does not persist for the full duration of the Permanent Disturbance.

(36) "SGMA" means Sage-grouse Management Areas as identified in the Plan.

(37) "Seasonal Habitat" means all habitats utilized by sage-grouse for survival during some portion of its life cycle, including leks, nesting, brood rearing, late brood rearing, transitional corridors, and winter habitat.

(38) "Service Area" means any SGMA within the State of Utah.

(39) "SITLA Lands" means lands owned or managed by the Utah School and Institutional Trust Lands Administration.

(40) "State Lands" means lands owned or managed by any State of Utah agency other than SITLA.

(41) "Term Mitigation Agreement" means an agreement between the Department and any person(s) owning or controlling property within any SGMA, where the landowner conducts a Credit Generation Project for the benefit of sage-grouse, and which actions result in the creation of Credits to be transferred to Credit Buyers to offset Permanent Disturbances to sage-grouse Habitat.

(42) "Transfer" means the conveyance of Credits from one person or entity to another to offset impacts from Permanent Disturbance.

(43) "Transferred Credit" means any Credit transferred within the Department's Credit Exchange Service to offset impacts from Permanent Disturbance.

(44) "Verification" means the process used to confirm that Compensatory Mitigation Program rules have been followed through standardized reporting and monitoring.

(45) "Verifier" means any person or entity that has been accredited by the Department and certifies or monitors Functional Habitat, Corridors or Protected Habitat following Credit Generation Projects utilizing the scientific methods and guidelines approved by the Department.

**KEY: Sage Grouse, mitigation**

**Date of Last Change: 2022[~~March 26, 2018~~]**

**Authorizing, and Implemented or Interpreted Law: 79-2-501**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R765-611	Filing ID 54119

**Agency Information**

1. Department:	Higher Education (Utah Board of)
Agency:	Administration

<b>Building:</b>	Board of Regents Building, The Gateway	
<b>Street address:</b>	60 S 400 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84101	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Kevin V. Olsen	801-556-3461	kvolsen@agutah.gov
Ashley Reyes	801-321-7211	areyes@utahsbr.edu
Geoffrey T. Landward	801-321-7136	glandward@ushe.edu
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R765-611. Veterans Tuition Gap Program
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
The reason for filing this amendment is to require applicants of the Veterans Tuition Gap Program to complete the Free Application for Federal Student Aid as required by Subsection 53B-13b-104(3). In addition, the title of the agency needs to be renamed to comply with S.B. 111 from the 2020 General Session.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
The amendment provides an additional requirement for applicants of the Veterans Tuition Gap Program to complete the Free Application for Federal Student Aid, with the ability to opt out due to financial and privacy concerns. In addition, the reference to "Regents (Board of)" as the agency is changed to "Higher Education (Utah Board of)." Further, there are several other technical changes, including the renumbering of subsections.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
Enactment of this amendment likely will not materially impact state revenue because this rule applies only to students who apply under the Veterans Tuition Gap Program.

<b>B) Local governments:</b>			
Enactment of this amendment likely will not result in direct, measurable costs for local governments because this rule applies to students of higher education institutions who apply under the Veterans Tuition Gap Program.			
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>			
Enactment of this amendment likely will not result in a change of the regulatory burden for small businesses because this rule does not apply to or affect small businesses.			
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>			
Enactment of this amendment likely will not result in a change of the regulatory burden for non-small businesses because this rule does not apply to or affect non-small businesses.			
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):</b>			
Enactment of this amendment likely will not change the regulatory burden for persons other than small businesses, non-small businesses, state, or local government entities because this rule applies only to students who apply under the Veterans Tuition Gap Program.			
<b>F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):</b>			
There are no compliance costs for affected persons since the Veterans Tuition Gap Program is voluntary.			
<b>G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):</b>			
The rule affects the Veterans Tuition Gap Program that is administered by Utah Higher Education Assistance Authority and has no fiscal impact on businesses. David R. Woolstenhulme, Commissioner			
<b>6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)</b>			
<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$0	\$0	\$0

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Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>B) Department head approval of regulatory impact analysis:</b>			
The Commissioner of Higher Education, David R. Woolstenhulme, has reviewed and approved this fiscal analysis.			

**Citation Information**

<b>7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:</b>		
Subsection		
53B-13b-104(3)(c)		

**Public Notice Information**

<b>9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)</b>	
<b>A) Comments will be accepted until:</b>	01/03/2022
<b>10. This rule change MAY become effective on:</b>	01/10/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency	

must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Kevin V. Olsen, Designee and Assistant Attorney General	<b>Date:</b>	11/10/2021
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**R765. [Regents]Higher Education (Utah Board of) Administration.**

**R765-611. Veterans Tuition Gap Program.**

**R765-611-1. Purpose.**

The purpose of this rule is to ~~[To]~~provide ~~[Board of Regents ("the Board") policy]~~the rules and procedures for implementing ~~[the]Title 53B, Chapter 13b, Veterans Tuition Gap Program Act[, Utah Code Title 53B, Chapter 13b, enacted in S.B. 16 by the 2014 General Session of the Utah Legislature and amended by S.B. 35 of the 2017 General Session of the Utah Legislature.]~~

**R765-611-2. [References]Authority.**

This rule is authorized by Subsection 53B-13b-104(3)(c).  
~~2.1. Utah Code Section 68-3-12.5 (Definition of Veteran)~~  
~~2.2. Utah Code Section 53B-8-106 (Resident tuition Requirements - Rules)~~  
~~2.3. Utah Code Section 53B-8-102 (Definition of Resident Student)~~  
~~2.4. Utah Code Section 53B-13b-101 to 104 (Veterans Tuition Gap Program Act)~~  
~~2.5. Policy and Procedures R512, Determination of Resident Status]~~

**R765-611-3. [Effective Date]Definitions.**

- (1) "Board" means the Utah Board of Higher Education.
- (2) "Eligible institution" means a higher education institution that grants baccalaureate degrees and is:
  - (a) a public institution of higher education described in Subsection 53B-2-101(1); or
  - (b) a private, nonprofit, postsecondary institution that is:
    - (i) recognized by the Internal Revenue Service or the state;
    - (ii) located within the state; and
    - (iii) accredited by an accrediting organization recognized by the U.S. Department of Education.
  - (3) "Eligible student" means a student attending an eligible institution who:
    - (a) is a resident student of the state as established under Section 53B-8-102 and Board Policy R512 or exempt from paying the nonresident portion of total tuition under Section 53B-8-106;
    - (b) is a veteran as defined by Section 68-3-12.5;
    - (c) is unconditionally admitted and currently enrolled in an eligible program leading to a bachelor's degree at an eligible institution;
    - (d) is maintaining satisfactory academic progress, as defined by the institution, toward the degree in which enrolled;
    - (e) has exhausted the federal benefit under any veterans educational assistance program or such benefits are unavailable;
    - (f) has not completed a bachelor's degree;
    - (g) is in the final year of the student's academic baccalaureate program; and

(h) has completed the FAFSA to the extent that it will benefit the student's ability to maximize financial aid opportunities, except that the student may opt out of this requirement due to:

(i) financial ineligibility for any potential grant or other financial aid;

(ii) personal privacy concerns; or

(iii) advice of the institution based on its assessment of the factors that may impact the student's ability to access maximum financial aid opportunities.

(4) "FAFSA" means the financial reporting form known as Free Application for Federal Student Aid that is administered by the U.S. Department of Education to determine the need and eligibility of a higher education student for financial aid.

(5) "Institutional Participation agreement" means a written agreement between the program administrator and an eligible institution that is needed for the eligible institution to participate in VeT Gap.

(6) "Program administrator" means the Associate Commissioner for Student Financial Aid, or a person designated in a formal delegation of authority by the Associate Commissioner, under executive direction of the Commissioner of Higher Education.

(7) "VeT Gap" means Veterans Tuition Gap Program. [These policies and procedures are effective July 1, 2017.]

**R765-611-4. [Policy] Program Description and Length of Award Year.**

~~[4.1. Program Description: The Veterans Tuition Gap Program (1) VeT Gap] is a [S]state supplement grant to provide tuition assistance for veterans who are attending institutions of higher education in Utah and whose benefits under the [F]federal program have been exhausted or are not available. This program [is]shall be only available to [higher education]eligible institutions that grant baccalaureate degrees.~~

~~[4.2.](2) [Award Year:]The award year for VeT Gap is the twelve-month period coinciding with the [S]state fiscal year beginning July 1 and ending June 30.~~

~~[4.3. Institutions Eligible to Participate: Eligible institutions include those located within the State of Utah which are accredited by a regional or national accrediting organization recognized by the Board.~~

~~4.4. Students Eligible to Participate: To be eligible for assistance from VeT Gap funds, a student must:~~

~~4.4.1. be a resident student of the State of Utah under Utah Code Section 53B-8-102 and Board Policy R512 or exempt from paying the nonresident portion of total tuition under Utah Code Section 53B-8-106; and~~

~~4.4.2. be a veteran as defined by Utah Code Section 68-3-12.5; and~~

~~4.4.3. be unconditionally admitted and currently enrolled in an eligible program leading to a bachelor's degree at an eligible institution; and~~

~~4.4.4. be maintaining satisfactory academic progress, as defined by the institution, toward the degree in which enrolled; and~~

~~4.4.5. has exhausted the Federal benefit under any veterans educational assistance program or such benefits are unavailable; and~~

~~4.4.6. has not completed a bachelor's degree; and~~

~~4.4.7. be in the final year of his or her academic baccalaureate program.]~~

~~[4.5.](3) [Length of Award Period:]An [qualifying military veteran]eligible student may receive a [program]VeT Gap grant until the earlier of the following occurs:~~

~~[4.5.1.](a) the [qualifying military veteran]eligible student completes the requirements for a bachelor's degree; or~~

~~[4.5.2.](b) 12 months from the beginning of the initial academic term for which the [qualifying military veteran]eligible student receives an initial program grant.~~

~~[4.6. Program Administrator: The program administrator for the VeT Gap is the Associate Commissioner for Student Financial Aid, or a person designated in a formal delegation of authority by the Associate Commissioner, under executive direction of the Commissioner of Higher Education.]~~

~~[4.7. Availability of Funds for the Program:]~~

**R765-611-5. Availability of Program Funds.**

~~(1) Funds available for VeT Gap allocations to eligible institutions may come from specifically earmarked [S]state appropriations, or from other sources such as private contributions. [Amounts available for allocations]An eligible institution's ability to participate in VeT Gap shall be determined each year [shall be allocated]as follows:~~

~~[4.8. Allocation of Program Funds to Institutions]~~

~~[4.8.1.](a) Annually, [the participating institution will provide the following required data, for the most recently completed academic year,]by March 1<sup>st</sup>[,] [F]the director of financial aid of an eligible institution, in consultation with the institution's veterans affairs officer, [will]shall demonstrate intention to continue participation in VeT Gap by submitting to the program administrator a certification, subject to audit, of the total number of veterans who were resident students of the [S]state [of Utah]under [Utah Code]Section 53B-8-102 and Board Policy R512 who have graduated from the institution with a baccalaureate degree in the most recently completed academic year.~~

~~[4.8.2.](b) Failure to submit the certification required in [4.8.1.]Subsection (1)(a) by the requested date shall constitute[s] an automatic decision by [an]the eligible institution to not [to]participate in the program for the next fiscal year.~~

**R765-611-6. Allocation of Program Funds to Eligible Institutions.**

~~[4.8.3.](1) Allocation of program funds to [participating]an eligible institution[s] [will]shall be based on the proportion of the [total number of an]institution's Utah resident students who are veterans who graduated with a baccalaureate degree in the most recently completed academic year when compared to[and the proportion of each participating institution's number of those students to] the total population of such students in each of the other eligible institutions that are participating in VeT Gap that year. For example[;]~~

~~4.8.3.1. A participating] a particular eligible institution's number of Utah resident students who are veterans and graduated with a baccalaureate degree during the most recently completed academic year [÷]divided by the [Total]total number of Utah resident students who are veterans and graduated from [all]each of the other participating eligible institutions with a baccalaureate degree during the most recently completed academic year [= %]equals the percent of VeT Gap funds allocated to [the participating]that particular eligible institution.~~

~~[4.8.4.](2) The program administrator [will]shall send official notification of each participating eligible institution's allocation to the institution's director of financial aid each fiscal year.~~

~~4.8.5. The program administrator will send a blank copy of the format for the institutional VeT Gap performance report, to be submitted within 30 days of the end of the applicable fiscal year, to the director of financial aid of each participating institution each fiscal year.~~

~~4.9. Institutional Participation Agreement:~~

**R765-611-7. Institutional Participation Agreement.**

~~Each participating eligible institution [will]shall enter into an [written]institutional participation agreement with the program administrator or assigned designee and agree[ing] to abide by the program [policies]rules, accept and disburse funds per program rules, [provide the required report each year.]and retain documentation for the program to support the awards and actions taken.[-By accepting the funds, the participating institution agrees to the following terms and conditions:]~~

~~4.9.1. Use of Program Funds Received by the Institution]~~

**R765-611-8. Use of Program Funds Received by an Eligible Institution.**

~~4.9.1.1.(1) [The]An eligible institution may at its discretion place up to, but in no case more than, 3.0% of the total amount of program funds allocated to it for the award year in a budget for student financial aid administrative expenses of the institution.~~

~~(2) If an eligible institution determines that it cannot use any portion of its VeT Gap allocation in an award year, the institution may return that portion of its allocation to the program administrator and the program administrator may redistribute the returned funds to other eligible institutions that it determines have unmet needs for that same award year.~~

~~4.9.1.2.(3) [The]An eligible institution may not carry forward or carry back from one fiscal year to another any of its VeT Gap allocation for a fiscal year. Any unused funds [will]shall be returned to the program administrator as directed. Returned funds [will]shall be re[-]distributed to eligible institutions as regular VeT Gap allocations for disbursement the next award year.~~

~~4.9.1.3.(4) [The]An eligible institution may establish processes to determine the distribution of funds to students so long as it does so in accordance with the provisions established in this [policy]rule.~~

~~4.9.2. Determination of Awards to Eligible Students]~~

**R765-611-9. Determination of Awards to Eligible Students.**

~~4.9.2.1.(1) Student cost of attendance budgets [will]shall be established by the eligible institution, in accordance with 20 U.S.C. Sec. 1087[11][1]-(2010), for specific student categories authorized in the [F]federal regulations, and providing for the total of costs payable to the institution plus other direct educational expenses, transportation and living expenses.~~

~~4.9.2.2. The total amount of any VeT Gap funds awarded to an eligible student in an academic year will not exceed the amount of tuition (not fees) for that academic year and may be impacted by the following:~~

~~(a) An eligible student whose period of enrollment is less than the normally expected period of enrollment within the award year (such as two semesters, three quarters, nine months, or 900 clock hours) will be awarded an amount in proportion to the normally expected period of enrollment represented by the term, or terms, e.g. semester or quarter) for which the student is enrolled; or~~

~~(b) The minimum student award amount may be the balance of funds remaining in the institution's allocation for the award year in the case that the previous eligible student receiving a~~

~~VeT Gap award for the year reduced the total available funds to an amount less than that for which an individual qualified.](2) An eligible student who receives a program grant may only use the grant toward tuition, fees and books at an eligible institution.~~

~~4.9.2.3.(3) VeT Gap funds [will]shall be awarded and packaged on an annual award year basis unless the remaining period of enrollment until completion of the academic program is less than one award year. Funds [will]shall be paid one quarter or semester at a time [(or in thirds, if applicable to some other enrollment basis such as total months or total clock hours[)], contingent upon the student's maintaining satisfactory progress as defined by the institution in published policies or rules.~~

~~4.9.2.4.(4) [All]Each award[s] under the program [will]shall be made in accordance with the non-discrimination requirements of 34 C.F.R. Part 100[-(2000)].~~

~~4.9.2.5.(5) Each eligible [S]student[s] receiving financial aid under the program [will]shall be required to agree in writing to use the funds received for expenses covered in the student's cost of attendance budget.~~

~~(a) The student's signature on the [Free Application for Federal Student Aid]FAFSA shall satisfy[ies] this requirement.~~

~~(b)(6) If the eligible institution determines, after opportunity for a hearing on appeal according to established institutional procedures, that an eligible student used VeT Gap funds for other purposes, the institution [will]shall disqualify the student from VeT Gap eligibility beginning with the quarter, semester or other defined enrollment period after the one in which the determination is made.~~

~~4.9.2.6.(7) [In no case will the]An eligible institution may not initially award program funds in amounts which, with Federal Direct, Federal Direct PLUS [and/]or Perkins Loans [and/]or other financial aid from any source, both need and merit-based, and with expected family contributions, exceed the cost of attendance for the student at the institution for the award year.~~

~~4.9.2.7.(8) If, after the eligible student's financial aid has been packaged and awarded, the student later receives other financial assistance, such as, [(for example, merit or program-based scholarship aid[)] or the student's cost of attendance budget changes, resulting in a later over-award of more than \$300, the eligible institution [will]shall appropriately reduce the amount of financial aid disbursed to the student so that the total does not exceed the cost of attendance.~~

~~4.9.3. Reports: The institution will submit an annual report within 30 days after completion of the award year, providing information on individual awards and such other program relevant information as the Board may reasonably require.]~~

**R765-611-10. Records, Retention and Cooperation in Program Reviews.**

~~4.9.4. Records Retention and Cooperation in Program Reviews: The]Each eligible institution [will]shall cooperate with the program administrator in providing records and information requested for any scheduled audits or program reviews, and [will]shall maintain records substantiating its compliance with all terms of the institutional participation agreement for three years after the end of the award year, or until a program review has been completed and any exceptions raised in the review have been resolved, whichever occurs first. If at the end of the three-year retention period, an audit or program review exception is pending resolution, the institution [will]shall retain records for the award year involved until the exception has been resolved.~~

**R765-611-11. FAFSA Training.**

To assist eligible students with the FAFSA requirement, each institution shall ensure that:

(1) each institution advisor encourages, to the extent practicable, each eligible student to annually complete the FAFSA; and

(2) the staff and faculty who advise eligible students on financial aid are properly trained on the benefits of completing the FAFSA.

**KEY: financial aid, higher education, veterans benefits**

Date of Last Change: ~~2022[August 31, 2018]~~

Notice of Continuation: May 27, 2020

Authorizing, and Implemented or Interpreted Law: 53B-13b-104(3); 53B-8-102; 53B-8-106; Pub. L. No. 110-252

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Amendment

<b>Utah Admin. Code Ref (R no.):</b>	<b>R765-800</b>	<b>Filing ID</b>	<b>54120</b>
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**Agency Information**

<b>1. Department:</b>	Higher Education (Utah Board of)		
<b>Agency:</b>	Administration		
<b>Building:</b>	Board of Regents Building, The Gateway		
<b>Street address:</b>	60 S 400 W		
<b>City, state and zip:</b>	Salt Lake City, UT 84101		
<b>Contact person(s):</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Kevin V. Olsen	801-556-3461	kvolsen@agutah.gov	
Geoffrey T. Landward	801-321-7136	glandward@ushe.edu	

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

**General Information**

<b>2. Rule or section catchline:</b>
R765-800. Free Expression on Campus
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
The reason for this amendment is to change the title of the agency to comply with S.B. 111 from the 2020 General Session.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>

The amendment changes the agency name from "Regents (Board of)" to "Higher Education (Utah Board of)." In addition, the policies of Salt Lake Community College and several technical colleges are added to those policies that are incorporated by reference. Further, there are several other technical changes, including the renumbering of subsections.

**Fiscal Information**

**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

**A) State budget:**

Enactment of this amendment likely will not materially impact state revenue because this rule applies to the civil rights of students who attend the state's institutions of higher education.

**B) Local governments:**

Enactment of this amendment likely will not result in direct, measurable costs for local governments because this rule applies to the civil rights of students who attend the state's institutions of higher education.

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

Enactment of this amendment likely will not result in direct expenditures from tax or fee changes for small businesses because this rule does not apply to or affect small businesses.

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

Enactment of this amendment likely will not result in direct expenditures from tax or fee changes for non-small businesses because this rule does not apply to or affect non-small businesses.

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

Enactment of this amendment likely will not change the regulatory burden for persons other than small businesses, non-small businesses, state, or local government entities because this rule provides civil rights protections to students who attend the state's institutions of higher education.

**F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):**

There are no compliance costs for affected persons since this rule addresses the civil rights of students who attend the state's institutions of higher education.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

This rule affects the civil rights of students who attend institutions in the state's system of higher education and has no fiscal impact on businesses. David R. Woolstenhulme, Commissioner

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**

The Commissioner of Higher Education, David R. Woolstenhulme, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 53B-27-302		
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	01/03/2022
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<b>10. This rule change MAY become effective on:</b>	01/10/2022
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Kevin V. Olsen, Designee and Assistant Attorney General	<b>Date:</b>	11/10/2021
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**R765. [Regents]Higher Education (Utah Board of), Administration.**

**R765-800. Free Expression on Campus.**

**R765-800-1. Purpose.**

~~(1)~~]In accordance with Title 53B, Chapter 27, Part 3, [Campus]Student Civil Liberties Protection Act, the rule establishes general rights to expression on campus as established by law and recognizes narrow limits on speech, including time, place, and manner restrictions.

**R780-800-2. [References]Authority.**

~~(1) United States Constitution, Amendment 1, Freedom of Expression and Religion.~~

~~(2) Utah Constitution, Article 1, Section 15, Freedom of Speech and of the Press.~~

~~(3) Title 53B, Chapter 27, Part 2, Campus Free Expression Act.~~

~~(4) Title 53B, Chapter 27, Part 3, Campus Civil Liberties Protection Act]~~This rule is authorized by Section 53B-27-302.

**R780-800-3. Definitions.**

(1) "Free Expression" means all forms of verbal, written, or symbolic communication, including peaceful assembly, protests, speaking verbally, holding signs, circulating petitions, and distributing written materials.

(a)2) "Free expression" does not include speech or conduct that is not recognized as protected by the First Amendment to the U.S. Constitution and Article 1, Section 15 of the Utah Constitution, including speech or conduct that is a true threat, fraudulent, harassment, obscene, defamatory, or otherwise unlawful.

**R780-800-4. General Rights of Free Expression on Campus.**

(1) Each [F]institution[s] shall uphold and promote free expression on campus. Except as limited by regulations consistent with the law and this rule, the following rules shall apply:

(a) [aH]each student and member of the faculty[,-students,] and staff shall have the right to express views and ideas, and [are]shall be free to criticize, contest, and condemn views expressed on campus and[-]

(b) [neither]no student or member of the faculty[-] and staff[-,nor students] may obstruct, disrupt, suppress or otherwise interfere with the freedom of others to express views and ideas.

([3]2) Each [F]institution[s]' outdoor areas are [a-]public forums.

([4]3) Subject to Section R765-800-5, an institution[s] may not prohibit:

(a) a member of the institution's community or the public from spontaneously and contemporaneously assembling in an outdoor area of the institution's campus; or

(b) a person from freely engaging in noncommercial expressive activity in an outdoor area of the institution's campus if the person's conduct is lawful.

**R765-800-5. Time, Place and Manner Restrictions.**

(1) An [F]institution[s] may reasonably regulate the time, place, and manner of free expression to ensure that it does not disrupt the institution's ordinary activities. This restriction includes established procedures for engaging in organized speech activities, such as protest marches or invited speakers.

(2) These exceptions to the principle of freedom of expression must be viewpoint neutral, generally content neutral, narrowly tailored, and leave ample opportunity for alternative means for expression. Institutions [with]may not use these exceptions in a manner that is inconsistent with the institutions' commitment to free and open discussion of ideas.

**R780-800-6. Incorporation[s] of Institution Policies.**

(1) The following [F]institutions have adopted the following policies that are incorporated by reference within this rule, including any amendments:

([1]a) Utah State University[-]'s: [a-] Student Code Article III, [c]April 10, 2009[-];

([2]b) Weber State University[-]'s: [a]i) PPM 6-22, Student Code, [c]September 13, 2018[-]; [b]ii) PPM 5-37, Campus Facilities Use, [c]December 4, 2012[-]; and

([e]iii) PPM 7-10, Posting and Distribution of Written Materials, [c]October 3, 2017[-];

([3]c) University of Utah[-]'s: [a-] Policy 1-007, University Speech Policy, [c]June 12, 2008[-];

([4]d) Utah Valley University[-]'s: [a]i) 161 Freedom of Speech, [c]June 22, 2017[-];

[b]ii) 162 Sexual Misconduct, [c]June 18, 2019[-]; and [e]iii) 165 Discrimination, Harassment, and Affirmative Action, [c]June 18, 2019[-];

([5]e) Snow College[-]: [a]i) Student Rights and Responsibilities, [c]May 31, 2019[-]; and

[b]ii) Snow College Free Speech Policy, [c]December 8, 2017[-];

([6]f) Southern Utah University[-]'s: [a-] Policy 5.1, Free Speech and Advocacy on Campus, [c]May 3, 2018[-];

([7]g) Dixie State University[-]'s: [a]i) Policy 110, Free Speech, [c]March 5, 2018[-]; and [b]ii) Policy 552, Student Rights and Responsibilities, [c]April 28, 2017[-];

(h) Salt Lake Community College's Campus Speech 3-2.03. (08/01/2018);

(i) Davis Technical College's Free Expression on Campus Policy, 7/30/2019;

(j) Dixie Technical College's Student Free Expression Rule, 9/24/2019;

(k) Mountainland Technical College's Free Expression 500.590, effective 7.23.19;

(l) Ogden-Weber Technical College's Free Expression on Campus 500.2, approved on July 25, 2019; and

(m) Southwest Technical College's: (i) Grievance Policy, July 29, 2019;

(ii) Student Conduct Policy, July 29, 2019; and (iii) Harassment, Nondiscrimination and Equal Opportunity, July 29, 2019.

**KEY: civil liberties, free speech**

**Date of Last Change: 2022[October 19, 2019]**

**Authorizing, and Implemented or Interpreted Law: 53B-27-302**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R765-801	Filing ID 54121

**Agency Information**

<b>1. Department:</b>	Higher Education (Utah Board of)	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Regents Building, The Gateway	
<b>Street address:</b>	60 S 400 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84101	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Kevin V. Olsen	801-556-3461	kvolsen@agutah.gov
Geoffrey T. Landward	801-321-7136	glandward@ushe.edu

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

**General Information**

<b>2. Rule or section catchline:</b>
R765-801. Student Due Process

**3. Purpose of the new rule or reason for the change** (Why is the agency submitting this filing?):  
 The reason for this amendment is to change the title of the agency to comply with S.B. 111 from the 2020 General Session.

**4. Summary of the new rule or change** (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):  
 The amendment changes the agency name from "Regents (Board of)" to "Higher Education (Utah Board of)." In addition, the policies of several technical colleges are added. Further, there are several other technical changes, including the renumbering of subsections.

**Fiscal Information**

**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

**A) State budget:**  
 Enactment of this amendment likely will not materially impact state revenue because this rule applies to the civil rights of students who attend the state's institutions of higher education.

**B) Local governments:**  
 Enactment of this amendment likely will not result in direct, measurable costs for local governments because this rule applies to the civil rights of students who attend the state's institutions of higher education.

**C) Small businesses** ("small business" means a business employing 1-49 persons):  
 Enactment of this amendment likely will not result in direct expenditures from tax or fee changes for small businesses because this rule does not apply to or affect small businesses.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):  
 Enactment of this amendment likely will not result in direct expenditures from tax or fee changes for non-small businesses because this rule does not apply to or affect non-small businesses.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an *agency*):  
 Enactment of this amendment likely will not change the regulatory burden for persons other than small businesses, non-small businesses, state, or local government entities because the rule provides civil rights

protections to students who attend the state's institutions of higher education.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):  
 There are no compliance costs for affected persons since this rule addresses the civil rights of students who attend the state's institutions of higher education.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):  
 This rule protects the civil rights of students who attend institutions in the state's system of higher education and has no fiscal impact on businesses. David R. Woolstenhulme, Commissioner

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**

The Commissioner of Higher Education, David R. Woolstenhulme, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 53B-27-302		
-----------------------	--	--

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	01/03/2022
--	------------

<b>10. This rule change MAY become effective on:</b>	01/10/2022
--	------------

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Kevin V. Olsen, Designee and Assistant Attorney General	<b>Date:</b>	11/10/2021
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**R765. [Regents]Higher Education (Utah Board of) Administration.**

**R765-801. Student Due Process.**

**R765-801-1. Purpose.**

~~[(1)]~~In accordance with Title 53B, Chapter 27, Part 3, ~~[Campus]Student~~ Civil Liberties Protection Act, this rule establishes general elements of due process that institutions must provide to a student prior to being expelled or suspended for 10 days or more for non-academic code of conduct violations.

**R765-801-2. [References]Authority.**

~~[(1) United States Constitution, Amendment 14, Due Process.~~  
~~\_\_\_\_\_ (2) Utah Constitution, Article 1, Section 7, Due Process of Law.~~  
~~\_\_\_\_\_ (3) Title 53B, Chapter 27, Part 3, Campus Civil Liberties Protection Act]~~This rule is authorized by Section 53B-27-302.

**R765-801-3. General Rights of Due Process.**

(1) In matters of non-academic conduct that may result in either expulsion or a minimum 10-day suspension, each institution[s] ~~[will]shall~~ provide students the following minimum due process:

(a) ~~[Notice.]~~Prior to being interviewed about allegations of misconduct, the institution shall provide the student[s] with notice of the allegations against the~~[m]~~ student and of the~~[#]~~ student's right to have an advisor throughout the process who may, but need not be, an attorney.

(~~[i]~~b) During an inquiry, investigation, or other informal process, an advisor may only advise the student and may not actively participate in the investigation or informal process.

(~~[b]~~c) ~~[Explanation of the evidence.]~~Prior to a formal hearing, unless prohibited by reasonable circumstances, each party shall provide to the hearing committee chair [~~(~~or hearing officer~~)~~] copies of the documents they intend to submit as evidence and a list of witnesses they intend to call during the formal hearing. This information ~~[will]shall~~ be shared with ~~[both]each~~ part~~[ies]~~y. In all circumstances, including an informal process~~[es]~~, the institution[s] ~~[will]shall~~ provide the student[s] an explanation of the evidence against the~~[m]~~ student.

(~~[e]~~d) ~~[Opportunity to respond.]~~Each ~~[#]~~institution[s] ~~[will]shall~~ provide the student[s] an opportunity for a full hearing at which the~~[y]~~ student can respond to the allegations and evidence against the~~[m]~~ student. With the agreement of ~~[all]each~~ part~~[ies]~~y, the institution[s] may also provide an informal hearing or opportunity to respond or an agreed upon informal resolution.

(~~[i]~~e) At a formal adjudicatory hearing[s], the student[s] may have an advisor advocate for the~~[m]~~ student. The student's advisor may be an attorney. The student's advisor may actively participate in the hearing in accordance with the institution's policies regarding active participation.

**R765-801-4. Standard of Proof.**

Each ~~[S]~~student[s-are] shall be presumed not to have engaged in a ~~[C]~~code of ~~[C]~~conduct violation until ~~[an]the~~ institution has established a violation by a preponderance of the evidence.

**R765-801-5. Incorporations of Institutions' Policies.**

(1) The following ~~[#]~~institutions have adopted the following policies that are incorporated by reference within this rule, including amendments:

- (~~[+]~~a) Utah State University~~[-]'~~s;
- (~~[a]~~i) Policy 305, Discrimination Complaints, [~~(~~May 6, 2016~~)~~]; and
- (~~[b]~~ii) Student Code Article VIII, [~~(~~April 10, 2009~~)~~];
- (~~[2]~~b) Weber State University~~[-]'~~s[
- ~~\_\_\_\_\_ (a)]~~ PPM 6-22, Student Code, [~~(~~September 13, 2018~~)~~];
- (~~[3]~~c) University of Utah~~[-]'~~s;
- (~~[a]~~i) Policy 6-400, Code of Student Rights and Responsibilities, Sections III(C), VI (C), [~~(~~July 9, 2009~~)~~];
- (~~[b]~~ii) University's Rule 1-012A, Discrimination Complaint Process Rule, [~~(~~February 14, 2017~~)~~];
- (~~[e]~~iii) University's Rule 1-012B(III)(E-K), Sexual Misconduct Complaint Process Rule, [~~(~~February 14, 2017~~)~~]; and
- (~~[d]~~iv) Procedure 1-012, Discrimination Hearing Procedure, [~~(~~February 14, 2017~~)~~];
- (~~[4]~~d) Utah Valley University~~[-]'~~s;
- (~~[a]~~i) 162 Sexual Misconduct, [~~(~~June 18, 2019~~)~~];

NOTICES OF PROPOSED RULES

([b]ii) 165 Discrimination, Harassment, and Affirmative Action, [c]June 18, 2019[ ];

([e]iii) 502 Determination of Utah Resident Status for Tuition Purposes, [c]December 4, 2014[ ]; and

([d]iv) 541 Student Code of Conduct, [c]November 29, 2018[ ];

([5]e) Snow College[ ]s[ ]

[ ] Student Rights and Responsibilities, [c]May 31, 2019[ ];

([6]f) Southern Utah University[ ]s[ ]

[ ] Policy 11.2, Student Code of Conduct, [c]April 29, 2016[ ];

([7]g) Dixie State University[ ]s[ ]

([a]i) 154, Title IX, Harassment and Nondiscrimination, [c]September 1, 2016[ ]; and

([b]ii) 552, Student Rights and Responsibilities, [c]April 28, 2017[ ];

(h) Salt Lake Community College's Student Sexual Misconduct 3-2.02.01/17/2017;

(i) Davis Technical College's

(i) Davis Technical College Student Code of Conduct and Discipline Policy, July, 30, 2019; and

(ii) Davis Technical College Student Grievance Policy, July 30, 2019;

(j) Mountainland Technical College's Student Grievance 600.608, December 21, 2005;

(k) Ogden-Weber Technical College's Student Rights and Responsibilities, and Code of Conduct 530.4., July 25, 2019;

(l) Southwest Technical College's:

(i) Student Conduct Policy, July 1, 2020;

(ii) Grievance Policy, July 21, 2020;

(iii) Harassment, Nondiscrimination and Equal Opportunity, July 21, 2020; and

(iv) Title IX Due Process Policy, July 21, 2020; and

(m) Tooele Technical College's:

(i) Student Code of Conduct and Discipline, July 31, 2019;

and

(ii) Student Grievances, July 31, 2019.

**KEY:** civil liberties, due process  
**Date of Last Change:** ~~2022~~ **October 19, 2019**  
**Authorizing, and Implemented or Interpreted Law:** 53B-27-302

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R765-802	Filing ID 54122

**Agency Information**

<b>1. Department:</b>	Higher Education (Utah Board of)
<b>Agency:</b>	Administration
<b>Building:</b>	Board of Regents Building, The Gateway
<b>Street address:</b>	60 S 400 W
<b>City, state and zip:</b>	Salt Lake City, UT 84101

Contact person(s):		
Name:	Phone:	Email:
Kevin V. Olsen	801-556-3461	kvolsen@agutah.gov
Geoffrey T. Landward	801-321-7136	glandward@ushe.edu
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R765-802. Weapons on Campus
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
The reason for this amendment is to change the title of the agency to comply with S.B. 111 from the 2020 General Session.
<b>4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
This amendment changes the agency name from "Regents (Board of)" to "Higher Education (Utah Board of)." In addition, the policies of Salt Lake Community College and Ogden-Weber Technical College are added. Further, there are several other technical changes, including the renumbering of subsections.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
Enactment of this amendment likely will not materially impact state revenue because this rule applies to the civil rights of students who attend the state's institutions of higher education.
<b>B) Local governments:</b>
Enactment of this amendment likely will not result in direct, measurable costs for local governments because this rule applies to the civil rights of students who attend the state's institutions of higher education.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
Enactment of this amendment likely will not result in direct expenditures from tax or fee changes for small businesses because this rule does not apply to or affect small businesses.

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

Enactment of this amendment likely will not result in direct expenditures from tax or fee changes for non-small businesses because this rule does not apply to or affect non-small businesses.

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

Enactment of this amendment likely will not change the regulatory burden for persons other than small businesses, non-small businesses, state, or local government entities because this rule provides civil rights protections to students who attend the state's institutions of higher education.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons since this rule addresses the civil rights of students who attend the state's institutions of higher education.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

This rule affects the civil rights of students who attend institutions in the state's system of higher education and has no fiscal impact on businesses. David R. Woolstenhulme, Commissioner

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

Regulatory Impact Table			
Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**

The Commissioner of Higher Education, David R. Woolstenhulme, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 53B-27-302		
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	01/03/2022
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**10. This rule change MAY become effective on:**

01/10/2022  
 NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Kevin V. Olsen, Designee and Assistant Attorney General	<b>Date:</b>	11/10/2021
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**R765. ~~[Regents]~~Higher Education (Utah Board of), Administration.**  
**R765-802. Weapons on Campus.**

**R765-802-1. Purpose.**

~~[(1)]~~In accordance with Title 53B, Chapter 27, Part 3, ~~[Campus]~~Student Civil Liberties Protection Act, this rule establishes general rights and restrictions on possessing weapons on campus.

**R765-802-2. ~~[References]~~Authority.**

~~[(1)]~~ Title 76, Chapter 10, Part 500 Uniform Law (Right to bear arms in Utah).

~~[(2)]~~ Title 76, Chapter 10, Part 501 Definitions.

~~[(3)]~~ Title 76, Chapter 10, Part 505.5 Possession of a dangerous weapon, firearm, or sawed-off shotgun on or about school premises Penalties.

~~[(4)]~~ Title 76, Chapter 3, Part 203.2 Definitions Use of dangerous weapon in offenses committed on or about school premises Enhanced penalties. Exceptions.

~~[(5)]~~ Title 53, Chapter 5, Section 704 Bureau duties Permit to carry concealed firearm Certification for concealed firearms instructor Requirements for issuance Violation Denial, suspension, or revocation Appeal Procedure.

~~[(6)]~~ Title 53, Chapter 5, Section Temporary permit to carry concealed firearm Denial, suspension, or revocation Appeal.

~~[(7)]~~ Title 76, Chapter 10, Possession of firearm at residence or on real property authorized.

~~[(8)]~~ Title 76, Chapter 10, Persons exempt from weapons laws.

~~[(9)]~~ Title 53B, Chapter 27, Part 3, Campus Civil Liberties Protection Act]This rule is authorized by Section 53B-27-302.

**R765-802-3. Possession of Weapons on Campus.**

(1) Each ~~[H]~~institution[s] shall comply with and enforce the following state laws ~~[referenced in section 2]~~governing firearms on campus[-];

(a) Title 53B, Chapter 27, Part 3, Student Civil Liberties Protection Act;

(b) Title 76, Chapter 3, Part 2, Sentencing; and

(c) Title 76, Chapter 10, Part 5, Weapons.

**R765-802-4. Incorporations of Institution Policies.**

(1) The following ~~[H]~~institutions have adopted the following policies that are incorporated by reference within this rule, including any amendments:

~~[(1)]~~a) Weber State University[-]'s[

~~[(a)]~~ PPM 5-35a, Firearms on Campus, August 10, 2010[-];

~~[(2)]~~b) University of Utah[-]'s[

~~[(a)]~~ Policy 1-003, Firearms on Campus, September 24, 2007[-];

~~[(3)]~~c) Utah Valley University[-]'s[

~~[(a)]~~ 541 Student Code of Conduct, November 29, 2018[-];

~~[(d)]~~ Salt Lake Community College's Weapons 2-3.14, 10/02/2018; and

~~[(e)]~~ Ogden-Weber Technical College's Weapons Prohibited on College Property and at College Activities 520.52., July 25, 2019.

**KEY: civil liberties, due process, weapons**

**Date of Last Change: 2022[October 19, 2019]**

**Authorizing, and Implemented or Interpreted Law: 53B-27-302**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R861-1A-16	Filing ID 54131

**Agency Information**

1. Department:	Tax Commission	
Agency:	Administration	
Building:	Utah State Tax Commission	
Street address:	210 N 1950 W	
City, state and zip:	Salt Lake City, UT 84134	
Contact person(s):		
Name:	Phone:	Email:
Chantay Asper	801-297-3901	casper@utah.gov

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

**General Information**

2. Rule or section catchline:
R861-1A-16. Utah State Tax Commission Management Plan Pursuant to Utah Code Ann. Section 59-1-207
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The reason for the change is to make conforming changes consistent with organizational modifications in the Tax Commission and state government.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The proposed rule amendments modify the Utah State Tax Commission's management plan to delegate certain responsibilities related to public information from the Office of the Commission to the executive director.

**Fiscal Information**

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
This amendment is not expected to impact the state budget because it only impacts Tax Commission internal operations.

**B) Local governments:**  
 This amendment is not expected to impact local governments because it only impacts Tax Commission internal operations.

**C) Small businesses** ("small business" means a business employing 1-49 persons):  
 This amendment is not expected to impact small businesses because it only impacts Tax Commission internal operations.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):  
 This amendment is not expected to impact non-small businesses because it only impacts Tax Commission internal operations.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):  
 This amendment is not expected to impact persons other than small businesses, non-small businesses, state, or local government entities because it only impacts Tax Commission internal operations.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):  
 This amendment is not expected to impact compliance costs for affected persons because it only impacts Tax Commission internal operations.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):  
 This amendment is not expected to result in a fiscal impact on businesses because it only impacts Tax Commission internal operations. Rebecca Rockwell, Commissioner

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

Regulatory Impact Table			
Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

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

**B) Department head approval of regulatory impact analysis:**

The Commissioner of the Utah State Tax Commission, Rebecca L. Rockwell, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 59-1-207

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 01/03/2022

**10. This rule change MAY become effective on:** 01/10/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Commissioner Rebecca L. Rockwell	<b>Date:</b>	11/15/2021
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**R861. Tax Commission, Administration.**

**R861-1A. Administrative Procedures.**

**R861-1A-16. Utah State Tax Commission Management Plan Pursuant to Utah Code Ann. Section 59-1-207.**

(1) The executive director reports to the commission. The executive director shall meet with the commission periodically to report on the status and progress of this agreement, update the commission on the affairs of the agency and seek policy guidance. The chairman of the commission shall designate a liaison of the commission to coordinate with the executive director in the execution of this agreement.

(2) The structure of the agency is as follows:

(a) The Office of the Commission, including the commissioners and the following units that report to the commission:

- (i) Internal Audit;
- (ii) Appeals; and
- (iii) Economic and Statistical; ~~and~~
- ~~(iv) Public Information.~~

(b) The Office of the Executive Director, including the executive director's staff and the following divisions that report to the executive director:

- (i) Administration;
- (ii) Taxpayer Services;
- (iii) Motor Vehicle;
- (iv) Auditing;
- (v) Property Tax;
- (vi) ~~Processing~~ Financial Operations; and
- (vii) Motor Vehicle Enforcement.

(3) The Executive Director shall oversee service agreements from other departments, ~~including the Department of Human Resources and the Department of Technology Services.~~

(4) The commission hereby delegates full authority for the following functions to the executive director:

- (a) general supervision and management of the day to day management of the operations and business of the agency conducted through the Office of the Executive Director and through the divisions set out in Subsection (2)(b);
- (b) management of the day to day relationships with the customers of the agency;
- (c) all original assessments, including adjustments to audit, assessment, and collection actions, except as provided in Subsections (4)(d) and (5);
- (d) in conformance with standards established by the commission, waivers of penalty and interest pursuant to Section 59-1-401 in amounts under \$10,000, or offers in compromise agreements in amounts under \$10,000;
- (e) except as provided in Subsection (5)(g), voluntary disclosure agreements with companies, including multilevel marketers;
- (f) determination of whether a county or taxing entity has satisfied its statutory obligations with respect to taxes and fees administered by the commission;
- (g) human resource management functions, including employee relations, final agency action on employee grievances, and development of internal policies and procedures; and
- (h) administration of Title 63G, Chapter 2, Government Records Access and Management Act.

(5) The executive director shall prepare and, upon approval by the commission, implement the following actions, agreements, and documents:

- (a) the agency budget;
- (b) the strategic plan of the agency;
- (c) administrative rules ~~and bulletins~~;
- (d) waivers of penalty and interest in amounts of \$10,000 or more pursuant to Section 59-1-401 as per the waiver of penalty and interest policy;

(e) offer in compromise agreements that abate tax, penalty and interest over \$10,000 as per the offer in compromise policy;

~~(f) the annual report;~~

~~(g)~~ (g) stipulated or negotiated agreements that dispose of matters on appeal; and

~~(e)~~ (h) voluntary disclosure agreements that meet the following criteria:

(i) the company participating in the agreement is not licensed in Utah and does not collect or remit Utah sales or corporate income tax; and

(ii) the agreement forgives a known past tax liability of \$10,000 or more.

(6) Subject to Subsections (5) and (7) through (10), ~~The~~ the commission shall retain authority for the following functions:

- (a) rulemaking;
- (b) adjudicative proceedings;
- (c) private letter rulings issued in response to requests from individual taxpayers for guidance on specific facts and circumstances;
- (d) internal audit processes;
- (e) liaison with the governor's office;

(i) ~~Correspondence~~ correspondence received from the governor's office relating to tax policy will be directed to the Office of the Commission for response ~~and~~. ~~Correspondence~~ correspondence received from the governor's office that relates to operating issues of the agency will be directed to the Office of the Executive Director for research and appropriate action ~~and~~. ~~The~~ the executive director shall prepare a timely response for the governor with notice to the commission as appropriate ~~and~~ and

(ii) ~~The~~ the executive director and staff may have other contact with the governor's office upon appropriate notice to the commission;

(f) liaison with the Legislature:

(i) The commission will set legislative priorities and communicate those priorities to the executive director.

(ii) Under the direction of the executive director, staff may be assigned to assist the commission and the executive director in monitoring legislative meetings and assisting legislators with policy issues relating to the agency; ~~and~~

(g) litigation:

(i) The executive director shall advise the commission on matters under litigation.

(ii) If a settlement offer is received, the executive director shall inform the commission of the:

(A) terms of the offer; and

(B) the division's recommendations with regards to that offer ~~and~~ and

~~(h) public information.~~

(7) Correspondence that has been directed to the commission or individual commissioners that relates to matters delegated to the executive director shall be forwarded to a staff member of the Office of the Executive Director for research and appropriate action. A log shall be maintained of all correspondence and periodically the executive

director will review with the commission the volume, nature, and resolution of all correspondence from all sources.

(8) The executive director's staff may occasionally act as support staff to the commission for purposes of conducting research or making recommendations on tax issues.

(a) Official communications or assignments from the commission or individual commissioners to the staff reporting to the executive director shall be made through the executive director.

(b) The commissioners and the Office of the Commission staff reserve the right to contact agency staff directly to facilitate a collegial working environment and maintain communications within the agency. These contacts will exclude direct commands, specific policy implementation guidance, or human resource administration.

(9) The commission shall meet with the executive director periodically ~~[for the purpose of exchanging]~~ to exchange information and ~~[coordinating]~~ coordinate operations.

(a) The commission shall discuss with the executive director all policy decisions, appeal decisions or other commission actions that affect the day to day operations of the agency.

(b) The executive director shall keep the commission apprised of significant actions or issues arising in the course of the daily operation of the agency.

(c) When confronted with circumstances that are not covered by established policy or by instances of real or potential conflicts of interest, the executive director shall refer the matter to the commission.

(10) Subject to supervision and input by the commission, the executive director shall oversee the following:

(a) publications;

(b) bulletins; and

(c) formal responses to media and public inquiries.

**KEY: developmental disabilities, grievance procedures, taxation, disclosure requirements**

**Date of Last Change: 2022[~~January 1, 2022~~]**

**Notice of Continuation: November 9, 2021**

**Authorizing, and Implemented or Interpreted Law: 10-1-405; 41-1a-209; 52-4-207; 59-1-205; 59-1-207; 59-1-210; 59-1-301; 59-1-302.1; 59-1-304; 59-1-401; 59-1-403; 59-1-404; 59-1-405; 59-1-501; 59-1-502.5; 59-1-602; 59-1-611; 59-1-705; 59-1-706; 59-1-1004; 59-1-1404; 59-7-505; 59-10-512; 59-10-532; 59-10-533; 59-10-535; 59-12-107; 59-12-114; 59-12-118; 59-13-206; 59-13-210; 59-13-307; 59-10-544; 59-14-404; 59-2-212; 59-2-701; 59-2-705; 59-2-1003; 59-2-1004; 59-2-1006; 59-2-1007; 59-2-704; 59-2-924; 59-7-517; 63G-3-301; 63G-4-102; 76-8-502; 76-8-503; 59-2-701; 63G-4-201; 63G-4-202; 63G-4-203; 63G-4-204; 63G-4-205 through 63G-4-209; 63G-4-302; 63G-4-401; 63G-4-503; 63G-3-201(2); 68-3-7; 68-3-8.5; 69-2-5; 42 USC 12201; 28 CFR 25.107 1992 Edition**

#### **End of the Notices of Proposed Rules Section**



## NOTICES OF CHANGES IN PROPOSED RULES

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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 January 03, 2022.

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 March 31, 2022, 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.

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**The Changes in Proposed Rules Begin on the Following Page**

NOTICE OF CHANGE IN PROPOSED RULE		
Utah Admin. Code Ref (R no.):	R986-700	Filing ID: 53955

### Agency Information

<b>1. Department:</b>	Workforce Services	
<b>Agency:</b>	Employment Development	
<b>Building:</b>	Olene Walker Building	
<b>Street address:</b>	140 E Broadway (300 S)	
<b>City, state and zip:</b>	Salt Lake City, UT	
<b>Mailing address:</b>	PO Box 45244	
<b>City, state and zip:</b>	Salt Lake City, UT 84145-0244	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amanda McPeck	801-526-9653	ampeck@utah.gov
Please address questions regarding information on this notice to the agency.		

### General Information

<b>2. Rule or section catchline:</b>
R986-700. Child Care Assistance
<b>3. Publication date of previous proposed rule or change in proposed rule:</b>
10/01/2021
<b>4. Reason for this change (Why is the agency submitting this filing?):</b>
The Department of Workforce Services (DWS) received public comment concerning the definition of employment and is redefining employment in response to that commentary.
<b>5. Summary of this change (What does this filing do?):</b>
The change in the proposed rule describes the purpose of child care assistance as supporting employment and further defines employment for the purposes of the rule. The phrase "and wages or other remuneration are obtained legally" has been removed from the proposed definition of employment. If the rule change is enacted, DWS policy will be updated to reflect the change. As explained in the previous proposed rule change, the Child Care and Development Fund (CCDF) policy allows payment of Child Care assistance to "mixed status" families, or families where some household members are United States citizens and some are not. The proposed rule change clarifies that Child Care assistance is provided

to support employment for qualified households with at least one minor dependent child who is a United States citizen or who meets qualified alien status.  
 (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the October 1, 2021, issue of the Utah State Bulletin, on page 239. 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.)

### Fiscal Information

<b>6. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule change is not expected to have any fiscal impact on state government because any costs associated with implementing this rule change will be paid with funds granted to the state through the federal CCDF.
<b>B) Local government:</b>
This rule change is not expected to have any fiscal impact on local governments because the program is federally-funded and does not rely on local governments for funding, administration, or enforcement.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
The rule change is not expected to have any fiscal impact on small businesses because the change provides only technical, conforming, and stylistic changes in accordance with the CCDF plan for Utah and DWS practice.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
This rule change is not expected to have any fiscal impact on non-small businesses because the change provides only technical, conforming, and stylistic changes in accordance with the CCDF plan for Utah and DWS practice.
<b>E) Persons other than small businesses, non-small businesses, or state or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):</b>
The rule change is not expected to have any fiscal impact on other persons because the change provides only technical, conforming, and stylistic changes in accordance with the CCDF plan for Utah and DWS practice.

**F) Compliance costs for affected persons:**

The rule change is not expected to cause any compliance costs for affected persons because this rule change does not create any new eligibility or administrative requirements for recipients or any other affected persons.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

After a thorough analysis, it was determined that this rule change will have no fiscal impact to businesses. Casey Cameron, Executive Director

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

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Workforce Services, Casey Cameron, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 35A-3-203 | Section 35A-3-310 | Section 53F-5-210

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	01/03/2022
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<b>10. This rule change MAY become effective on:</b>	01/10/2022
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Casey Cameron, Executive Director	<b>Date:</b>	11/12/2021
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**R986. Workforce Services, Employment Development.**

**R986-700. Child Care Assistance.**

**R986-700-701.1. Definitions and Acronyms.**

- (1) The terms used in this rule are defined in Sections 35A-3-102 and 35A-3-201.
- (2) In addition:
  - (a) "ALJ" means Administrative Law Judge.
  - (b) "Applicant" means any person requesting CC.
  - (c) "Approved Provider" means a provider who meets the requirements in Section R986-700-726.
  - (d) "CC" means Child Care assistance or subsidy.
  - (e) "CCDF" means Child Care and Development Fund.
  - (f) "Certification period" as it relates to a recipient of CC is the period of time for which CC is presumptively approved.
  - (g) "Client" means an applicant for, or recipient of, CC.
  - (h) "Child" includes children and vice versa.

(i) "Child Care Provider" or "Provider" means any person, individual or corporation, institution or organization that provides child care services.

(j) "Department" means Department of Workforce Services.

(k) "DWS" means Department of Workforce Services.

(l) "Employment" means a job or providing a service that pays wages, a salary, in-kind benefits, or self-employment income, provided federal or state law does not prohibit the occupation[~~and wages or other remuneration are obtained legally~~].

(m) "Employment plan" is a written agreement between the Department and a client that describes the requirements for continued eligibility and the result if an obligation is not fulfilled.

(n) "FEP" means Family Employment Program.

(o) "FEPTP" means Family Employment Program Two Parent.

(p) "FFN" means Family, Friend and Neighbor provider.

(q) "Financial assistance" means a payment, other than for SNAP, CC, or medical care, to an eligible individual or household that is intended to provide for the individual's or household's basic needs.

(r) "Household assistance unit" means a group of individuals who are living together or who are considered to be living together, and for whom assistance is requested or issued.

(s) "IPV" means intentional program violation.

(t) "Licensed-center provider" means a non-hourly, licensed child care center that is regulated through CCL.

(u) "Local office" means the Employment Center that serves the geographical area in which the client resides.

(v) "Minor child" means a child under the age of 18, or under 19 years of age and in school full time and expected to complete the educational program prior to turning 19, and who has not been emancipated either by a lawful marriage or court order.

(w) "OCC" means Department of Workforce Services, Office of Child Care.

(x) "ORS" means Office of Recovery Service, Utah State Department of Human Services.

(y) "Parent" includes natural, adoptive, and stepparents. "Parent" includes "parents" and vice versa.

(z) "Recipient" means any individual receiving CC.

(aa) Review or recertification. Clients who are found eligible for CC are given a date for review or recertification at which point continuing eligibility is determined.

(bb) "SSA" means Social Security Administration.

(cc) "SSI" means Supplemental Security Insurance.

(dd) "TCA" means Transitional Cash Assistance.

(ee) "VA" means US Department of Veteran Affairs.

#### **R986-700-702. General Provisions.**

(1) Child Care assistance is provided to support employment for a qualified household with at least one minor dependent child who is a United States citizen or who meets qualified alien status. Child Care assistance for approved education and training activities, job search, or for an approved temporary change as defined in Section R986-700-703 may be authorized in accordance with this rule.

(2) Child Care assistance is available, as funding permits, to a client who is employed or is participating in activities that lead to employment, and is:

(a) a parent, including a foster care parent who receives foster care reimbursement from the Utah Department of Human Services, Division of Family and Child Care Services, or its successor;

(b) a specified relative; or

(c) a client who has been awarded custody or appointed guardian of the child by court order and both parents are absent from the home. If there is no court order, an exception can be made on a case by case basis in unusual circumstances by the Department program specialist.

(3) Child care assistance is provided only for a child who lives in the home of the client and only during hours when no parent or other guardian is available to provide care for the child. To be eligible, the child must have a need for at least eight hours of child care per month as determined by the Department.

(4) If a client is eligible to receive CC, each of the following children, living in the household unit, are eligible:

(a) a child under the age of 13 years; and

(b) a child up to the age of 18 years if the child:

(i) meets the requirements of Section R986-700-717; or

(ii) is under court supervision.

(5) A client who qualifies for CC will be paid if and as funding is available. When the child care needs of an eligible applicant exceeds available funding, the applicant will be placed on a waiting list. Eligible applicants on the waiting list will be served as funding becomes available. Special needs children, homeless children, and FEP or FEPTP eligible children will be prioritized at the top of the waiting list and will be served first. "Special needs child" is defined in Section R986-700-717.

(6) Child Care assistance is issued monthly based on a client's eligibility for services in that month. The amount of CC might not cover the entire cost of care.

(7) A client is only eligible for CC if the client has no other options available for child care. The client is encouraged to obtain child care at no cost from a parent, sibling, relative, or other suitable provider. If suitable child care is available to the client at no cost from another source, CC cannot be provided.

(8) Child Care assistance can only be provided by an eligible provider approved by the Department and will not be provided for illegal or unsafe child care. Illegal child care is care provided by any person or facility required to be licensed or certified but where the provider has not fulfilled the requirements necessary to obtain the license or certification.

(9) Child Care assistance will not be paid for the care of a client's own child during the time the client is working as a caregiver in the same residential setting where care is being provided. Child Care assistance will not be approved where the client is working for an approved child care center and regularly watches the client's own children at the center or has an ownership interest in the child care center. Child Care assistance will not be paid for the care of a client's own child if the client is also the licensee or is a stockholder, officer, director, partner, manager, or member of a corporation, partnership, limited liability partnership or company, or similar legal entity providing the child care.

(10) Neither the Department nor the state is liable for an injury that may occur when a child is placed in child care even if the parent receives CC from the Department.

(11) Once eligibility for CC has been established, eligibility must be reviewed once every 12 months. The review is not complete until the client has completed, signed, and returned each necessary review form to the local office. Each requested verification must be provided at the time of the review. If the Department determines the household's gross monthly income exceeds the percentage of the state median income as determined by the Department in Subsection R986-700-710(3), the Department may terminate CC even if the certification period has not expired.

**KEY: child care, grant programs**

**Date of Last Change: ~~2022~~[2024]**

**Notice of Continuation: August 28, 2020**

**Authorizing, and Implemented or Interpreted Law: 35A-3-203; 35A-3-310; 53F-5-210**

**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 [adminrules.utah.gov](http://adminrules.utah.gov). The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

**REVIEWS** are governed by Section 63G-3-305.

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R27-4	Filing ID: 53498

### Agency Information

<b>1. Department:</b>	Government Operations	
<b>Agency:</b>	Fleet Operations	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S 2700 W FL 3	
<b>City, state and zip:</b>	Taylorsville, UT 84129-2128	
<b>Mailing address:</b>	PO Box 141117	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1117	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Cory Weeks	801-957-7261	coryweeks@utah.gov
Please address questions regarding information on this notice to the agency.		

### General Information

<b>2. Rule catchline:</b>	R27-4. Vehicle Replacement and Expansion of State Fleet
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>	

This rule is established pursuant to Subsections 63A-9-401(1)(a), 63A-9-401(1)(d)(v), 63A-9-401(1)(d)(ix), 63A-9-401(1)(d)(x), 63A-9-401(1)(d)(xi), 63A-9-401(1)(d)(xii), 63A-9-401(4)(ii), and 63A-9-401(6), which require the division to: coordinate all purchases of state vehicles; make rules establishing requirements for the procurement of state vehicles, whether for the replacement or upgrade of current fleet vehicles or fleet expansion; make rules establishing requirements for cost recovery and billing procedures; make rules establishing requirements for the disposal of state vehicles; make rules establishing requirements for the reassignment and reallocation of state vehicles; and make rules establishing rate structures for state vehicles.

### 4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Office of the Legislative Fiscal Analyst requested an amendment to Section R27-4-5 that would make legislative approval easier. The Division of Fleet Operations agreed and an amendment is pending publication.

### 5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The statute requiring this rule still exists. Therefore, this rule should be continued.

### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Cory Weeks, Director	<b>Date:</b>	10/22/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R27-5	Filing ID: 53508

#### Agency Information

<b>1. Department:</b>	Government Operations	
<b>Agency:</b>	Fleet Operations	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S 2700 W FL 3	
<b>City, state and zip:</b>	Taylorsville, UT 84129-2128	
<b>Mailing address:</b>	PO Box 141117	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1117	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Cory Weeks	801-957-7261	coryweeks@utah.gov
Please address questions regarding information on this notice to the agency.		

#### General Information

<b>2. Rule catchline:</b>
R27-5. Fleet Tracking
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is established pursuant to Subsection 63A-9-401(1)(c), which requires the Division of Fleet Operations to establish one or more fleet automation and information systems for state vehicles.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments were received.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
Subsection 63A-9-401(1)(c) continues to require this rule. Therefore, this rule should be continued.

#### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Cory Weeks, Director	<b>Date:</b>	10/22/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R27-6	Filing ID: 53509

#### Agency Information

<b>1. Department:</b>	Government Operations	
<b>Agency:</b>	Fleet Operations	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S 2700 W FL 3	
<b>City, state and zip:</b>	Taylorsville, UT 84129-2128	
<b>Mailing address:</b>	PO Box 141117	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1117	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Cory Weeks	801-957-7261	coryweeks@utah.gov
Please address questions regarding information on this notice to the agency.		

#### General Information

<b>2. Rule catchline:</b>
R27-6. Fuel Dispensing Program
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is established pursuant to Subsections 63A-9-401(1)(d)(vi) and 63A-9-401(1)(f) which require the Division of Fleet Operations to make rules establishing requirements for fuel management programs, and to create and administer a fuel dispensing services program.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments were received.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
Subsections 63A-9-401(1)(d)(vi) and 63A-9-401(1)(f) continue to require this rule. Therefore, this rule should be continued.

#### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Cory Weeks, Director	<b>Date:</b>	10/22/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R27-8	Filing ID: 53502

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R27-9	Filing ID: 53503

**Agency Information**

<b>1. Department:</b>	Government Operations	
<b>Agency:</b>	Fleet Operations	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S 2700 W FL 3	
<b>City, state and zip:</b>	Taylorsville, UT 84129-2128	
<b>Mailing address:</b>	PO Box 141117	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1117	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Cory Weeks	801-957-7261	coryweeks@utah.gov
Please address questions regarding information on this notice to the agency.		

**Agency Information**

<b>1. Department:</b>	Government Operations	
<b>Agency:</b>	Fleet Operations	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S 2700 W FL 3	
<b>City, state and zip:</b>	Taylorsville, UT 84129-2128	
<b>Mailing address:</b>	PO Box 141117	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1117	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Cory Weeks	801-957-7261	coryweeks@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R27-8. State Vehicle Maintenance Program
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is established pursuant to Subsections 63A-9-401(1)(d)(i) and (iv), which require the Division of Fleet Operations to establish rules governing maintenance operations for state vehicles, and preventative maintenance programs.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments were received.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
Subsections 63A-9-401(1)(d)(i) and (iv) continue to require this rule. Therefore, this rule should be continued.

**General Information**

<b>2. Rule catchline:</b>
R27-9. Dispensing Compressed Natural Gas to the Public
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is established pursuant to Subsection 63A-9-702(3) which requires the Division of Fleet Operations (Division) to make rules establishing requirements for the sale of compressed natural gas (CNG) to the public.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments were received.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
The Division no longer sells compressed natural gas to the public. This rule is continued until the Division can repeal it. (EDITOR'S NOTE: The filing for the repeal of Rule R27-9 is under ID No. 53964 published in the November 15, 2021, issue of the Bulletin.)

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Cory Weeks, Director	<b>Date:</b>	10/22/2021
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**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Cory Weeks, Director	<b>Date:</b>	10/22/2021
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	R27-10	<b>Filing ID:</b>	53504
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**Agency Information**

<b>1. Department:</b>	Government Operations		
<b>Agency:</b>	Fleet Operations		
<b>Building:</b>	Taylorsville State Office Building		
<b>Street address:</b>	4315 S 2700 W FL 3		
<b>City, state and zip:</b>	Taylorsville, UT 84129-2128		
<b>Mailing address:</b>	PO Box 141117		
<b>City, state and zip:</b>	Salt Lake City, UT 84114-1117		
<b>Contact person(s):</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Cory Weeks	801-957-7261	coryweeks@utah.gov	
Please address questions regarding information on this notice to the agency.			

**General Information**

<b>2. Rule catchline:</b>
R27-10. Identification Mark for State Motor Vehicles
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Pursuant to Subsection 63A-9-401(5), the Division of Fleet Operations (Division) is responsible for ensuring that state-owned vehicles for all departments, universities, and colleges are marked as required by Section 41-1a-407. If "EX" license plates are required, the identification mark is also required for these agencies. Subsection 63A-9-601(1)(c) requires the Division to enact rules relating to the size and design of the identification mark.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments were received.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>

Statutory requirements remain in Section 41-1a-407 and Subsections 63A-9-401(5) and 63A-9-601(1)(c). Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Cory Weeks, Director	<b>Date:</b>	10/22/2021
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	R156-1	<b>Filing ID:</b>	53292
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**Agency Information**

<b>1. Department:</b>	Commerce		
<b>Agency:</b>	Occupational and Professional Licensing		
<b>Building:</b>	Heber M. Wells Building		
<b>Street address:</b>	160 E 300 S		
<b>City, state and zip:</b>	Salt Lake City, UT 84111-2316		
<b>Mailing address:</b>	PO Box 146741		
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6741		
<b>Contact person(s):</b>			
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>	
Deborah Blackburn	801-530-6060	deborahblackburn@utah.gov	
Please address questions regarding information on this notice to the agency.			

**General Information**

<b>2. Rule catchline:</b>
R156-1. General Rule of the Division of Occupational and Professional Licensing
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Subsection 58-1-106(1)(a) provides that the Division of Occupational and Professional Licensing (Division) may adopt and enforce rules to administer Title 58. Subsection 58-1-308(1)(a) provides that the Division will establish a rule with respect to the renewal cycle of occupations and professions regulated by the Division. This rule was enacted to clarify the provisions of Title 58, Chapter 1, with respect to all occupations and professions regulated by the Division.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

Since this rule was last reviewed in December 2016, it has been amended several times. The only written comment received in response to a November 2017 proposed rule filing was a November 14, 2017, email from April Ellis with Intermountain in which she offered various comments on behalf of Intermountain regarding telehealth amendments. The Division considered the written comments and allowed OAR File No. 42221 to lapse. The Division then refiled proposed amendments under OAR File No. 42582 which incorporated changes based on Intermountain's November 2017 comments.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule should be continued as it provides a mechanism to inform potential licensees of the general rules of the Division, as allowed under statutory authority provided in Title 58, Chapter 1, applicable to all occupations and professions regulated by the Division. This rule should also be continued as it provides information to ensure applicants for licensure are knowledgeable about general rules of the Division with respect to items that are not covered separately in each occupational/professional rule.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Mark B. Steinagel, Division Director	<b>Date:</b>	09/22/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R251-106</b>	<b>Filing No. 50348</b>

**Agency Information**

<b>1. Department:</b>	Corrections	
<b>Agency:</b>	Administration	
<b>Street address:</b>	14717 S. Minuteman Dr.	
<b>City, state, zip:</b>	Draper, UT 84020	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Matt Anderson	801-545-5589	mattanderson@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R251-106. Media Relations

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

This rule is authorized under Sections 63G-3-201, 64-13-10, 63G-2-204, 77-19-11, and Subsection 63G-2-201(12). The purpose of this rule is to define the Utah Department of Corrections' (UDC) policy under which persons representing the news media shall be allowed access to correctional institutions, inmates, and other supervised offenders. It is also intended to define UDC actions when a need exists for the safeguarding of information.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

No comments on this rule have been received since the last five-year review.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

The purpose of this rule is to define the UDC's policy under which persons representing the news media shall be allowed access to correctional institutions, inmates, and other supervised offenders. It is also intended to define UDC actions when a need exists for the safeguarding of information. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Brian Nielson, Executive Director	<b>Date:</b>	11/12/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R277-301</b>	<b>Filing ID: 53411</b>

**Agency Information**

<b>1. Department:</b>	Education
<b>Agency:</b>	Administration
<b>Building:</b>	Board of Education
<b>Street address:</b>	250 E 500 S
<b>City, state and zip:</b>	Salt Lake City, UT 84111
<b>Mailing address:</b>	PO Box 144200
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4200

<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R277-301. Educator Licensing

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

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

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

No written comments were received.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule continues to be necessary because it specifies the types of licenses and license areas of concentration available and the requirements and procedures for obtaining a license, required for employment as a licensed educator in the public schools of Utah. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	11/05/2021
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<b>FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION</b>		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R277-424</b>	<b>Filing ID: 50424</b>

**Agency Information**

<b>1. Department:</b>	Education
<b>Agency:</b>	Administration
<b>Building:</b>	Board of Education

<b>Street address:</b>	250 E 500 S
<b>City, state and zip:</b>	Salt Lake City, UT 84111
<b>Mailing address:</b>	PO Box 144200
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4200

<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R277-424. Indirect Costs for State Programs

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

This rule is authorized by the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; Subsection 53E-3-401(4) allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and Subsection 53E-3-501(1)(e) directs the Board to adopt rules for financial, statistical, and student accounting requirements.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

No written comments were received.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule continues to be necessary because it establishes Board standards for claiming indirect costs for state programs. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	11/05/2021
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<b>FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION</b>		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R277-477</b>	<b>Filing ID: 53547</b>

**Agency Information**

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

**General Information**

<b>2. Rule catchline:</b>
R277-477. Distributions of Funds from the Trust Distribution Account and Administration of the School LAND Trust Program
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is authorized by the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; Subsection 53F-2-404(2)(d) allows the Board to adopt rules regarding the time and manner in which a student count shall be made for allocation of funds; and Subsection 53E-3-401(4) allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments were received.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule continues to be necessary because it provides financial resources to a public school to implement a component of a school's Teacher and Student Success Plan in order to enhance and improve student academic achievement; provides a means to involve a parent of a school's student in decision-making regarding the expenditure of School LAND Trust program funds allocated to the school; provides direction in the distribution of funds from the Trust Distribution Account, as funded in Section 53F-2-404; provides for appropriate and adequate oversight of the expenditure and use of funds by

an approving entity, school administration, and the Board; provides for proper allocation of funds as stated in Section 53F-2-404 and the appropriate and timely distribution of the funds; enforces compliance with statutory and rule requirements, including the responsibility for a school community council to notify school community members regarding the use of funds; and defines the roles, duties, and responsibilities of the Superintendent with regards to the School Children's Trust. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	11/05/2021
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R277-484</b>	<b>Filing ID: 53323</b>
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**Agency Information**

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

**General Information**

<b>2. Rule catchline:</b>
R277-484. Data Standards
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is authorized by the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; Subsection 53E-3-401(4) allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; Subsection 53E-3-401(8)(a)

which allows the Board to take corrective action against an education entity that fails to comply with Board rules; and Subsection 53E-3-511(8) requires the Board to ensure LEA inclusion of data in an LEA's Student Information System.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

No written comments were received.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule continues to be necessary because it supports the operation of required educational accountability and financial systems by ensuring timely submission of data by LEAs. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	11/05/2021
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R277-491</b>	<b>Filing ID:</b>	<b>53548</b>
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**Agency Information**

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

**General Information**

<b>2. Rule catchline:</b>
R277-491. School Community Councils

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

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

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

No written comments were received.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule continues to be necessary because it provides procedures and clarifying information to a school community council to assist the council in fulfilling school community council responsibilities consistent with Sections 53G-7-1202 through 53G-7-1203; provides direction to a local school board, school, and school district in establishing and maintaining a school community council; provides a framework and support for improved academic achievement of students that is locally driven from within an individual school; and encourages increased participation of a parent, school employee, and others to support the mission of a school community council. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	11/05/2021
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R277-706</b>	<b>Filing ID:</b>	<b>53106</b>
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**Agency Information**

<b>1. Department:</b>	Education
<b>Agency:</b>	Administration
<b>Building:</b>	Board of Education
<b>Street address:</b>	250 E 500 S
<b>City, state and zip:</b>	Salt Lake City, UT 84111
<b>Mailing address:</b>	PO Box 144200
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4200

<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R277-706. Regional Education Service Agencies

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

This rule is authorized by the Utah Constitution, Article X, Section 3, which vests general control and supervision of public education in the Board; Section 53G-4-410 directs the Board to make rules regarding regional education service agencies; and Subsection 53E-3-401(4) permits the Board to adopt rules in accordance with the Board's responsibilities.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

No written comments were received.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule continues to be necessary because it provides definitions and procedures for school districts to form interlocal agreements and provides for distribution of legislative funds to eligible regional education service agencies by the Board. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	11/05/2021
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R277-925</b>	<b>Filing ID:</b>	<b>53601</b>
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**Agency Information**

<b>1. Department:</b>	Education
<b>Agency:</b>	Administration

<b>Building:</b>	Board of Education
<b>Street address:</b>	250 E 500 S
<b>City, state and zip:</b>	Salt Lake City, UT 84111
<b>Mailing address:</b>	PO Box 144200
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4200

<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R277-925. Effective Teachers in High Poverty Schools Incentive Program

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

This rule is authorized by the Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; Subsection 53E-3-401(4) allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and Subsection 53F-2-513(2)(b) requires the Board to make rules for the administration of the Effective Teachers in High Poverty Schools Incentive Program.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

No written comments were received.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule continues to be necessary because it provides standards and procedures for the administration of the Effective Teachers in High Poverty Schools Incentive Program. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent of Policy	<b>Date:</b>	11/05/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R386-900	Filing ID: 52320

#### Agency Information

<b>1. Department:</b>	Health	
<b>Agency:</b>	Disease Control and Prevention, Epidemiology	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	Box 142104	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-2104	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Heather Bush	801-538-6194	hbush@utah.gov
Scott White	801-538-6288	swhite1@utah.gov
Sam LeFevre	801-989-8328	slefevre@utah.gov
Please address questions regarding information on this notice to the agency.		

#### General Information

<b>2. Rule catchline:</b>
R386-900. Special Measures for the Operation of Syringe Exchange Programs
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 26-7-8 provides that the Department of Health (Department) shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how and when an entity operating a syringe exchange program shall make the report required by Subsection (2)(c).
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
The only comment the Department received in the three times this rule has been open for comment is the following from the Utah Harm Reduction Coalition on March 4, 2019: "We are writing on behalf of the staff and board of directors of the Utah Harm Reduction Coalition to offer our enthusiastic support of the draft Administrative Rule R386-

900. It has been over two years since our organization was created to respond to the critical lack of harm reduction services in Utah. As you know, since December 1, 2016, we have operated syringe exchange programs as authorized by H.B. 308 and subsequent administrative rule. We are proud of the work we have done since then and believe that the proposed rule builds upon our existing practices and procedures. We seek to be a collaborative partner to organizations and stakeholders the communities we serve. The drafted rule strengthens our ability to forge these collaborations and as a result we believe they add value to the harm reduction services we are delivery throughout the state."

#### 5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule has been amended twice with no comments opposing this rule. The last update was effective January 1, 2020. The Department has submitted reports for Legislature in 2017, 2019, and 2021. There have been no challenges or questions from the Legislature or state agency since the passing of the first rule in 2016. Syringe exchange programs operating in Utah are proven to be successful at reducing unsterile injections, follow all guidelines outlined in the Administrative Rule, and are closely monitored by UDOH staff. Further data on the success of syringe exchange programs operating in Utah can be found at <https://ptc.health.utah.gov/prevention/syringe-services/>. Therefore, this rule should be continued.

#### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Nathan Checketts, Interim Executive Director	<b>Date:</b>	11/04/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R657-20	Filing ID: 51743

#### Agency Information

<b>1. Department:</b>	Natural Resources
<b>Agency:</b>	Wildlife Resources
<b>Room no.:</b>	2110
<b>Building:</b>	DNR – Salt Lake Complex
<b>Street address:</b>	1594 W North Temple
<b>City, state and zip:</b>	Salt Lake City, UT 84114
<b>Mailing address:</b>	PO Box 146301
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6301

<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R657-20. Falconry
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Under Section 23-17-7 and in accordance with 50 CFR 21, 2000 ed., which is incorporated by reference into Rule R657-20, the Wildlife Board is authorized and required to provide rules to regulate the possession and use of raptors for falconry.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments were received during or since the last five-year review of Rule R657-20.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
Rule R657-20 provides the requirements, procedures, and standards for possessing and using raptors for falconry. The provisions adopted in this rule are effective in providing the requirements, procedures, and standards for managing the falconry program. Continuation of this rule is necessary for continued success of this program.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	J. Shirley, DWR Director	<b>Date:</b>	11/04/2021
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<b>FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION</b>		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R671-203</b>	<b>Filing ID: 51809</b>

**Agency Information**

<b>1. Department:</b>	Pardons (Board of)
<b>Agency:</b>	Administration
<b>Street address:</b>	448 E Winchester, Suite 300

<b>City, state and zip:</b>	Murray, UT 84107	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mike Haddon	801-261-6467	mikehaddon@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R671-203. Victim Input and Notification
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
The Utah Constitution in Article VII, Section 12, establishes the Board of Pardons and Parole (Board) and provides for its authority. Title 63G, Chapter 3, is the Utah Administrative Rulemaking Act which provides requirements for the rulemaking process. Section 77-27-9.5 provides that victims may attend hearings conducted by the Board and receive notification of hearings. Title 77, Chapter 37, includes specific rights for victims of crime, such as attending and participating in Board hearings. Title 77, Chapter 38, is referred to as the Right of Crime Victims Act which outlines rights established in statute for victims of crime, including interactions with the Board. More generally, Title 77, Chapter 27, outlines statutory responsibilities of the Board of Pardons and Parole.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments have been received by the Board regarding Rule R671-203 during or since the last five-year review.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule needs to continue because it provides the detailed guidance to victims of crime, as established in statute, on how to provide input to the Board as it makes decisions, as well as rights to notification of hearings conducting by the Board.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Mike Haddon, Director of Administrative Services	<b>Date:</b>	11/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R671-205	Filing ID: 51813

#### Agency Information

<b>1. Department:</b>	Pardons (Board of)	
<b>Agency:</b>	Administration	
<b>Street address:</b>	448 E Winchester, Suite 300	
<b>City, state and zip:</b>	Murray, UT 84107	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mike Haddon	801-261-6467	mikehaddon@utah.gov
Please address questions regarding information on this notice to the agency.		

#### General Information

<b>2. Rule catchline:</b>
R671-205. Credit for Time Served
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
The Utah Constitution in Article VII, Section 12, establishes the Board of Pardons and Parole (Board) and provides for its authority. Title 77, Chapter 18, outlines the judgement processes associated with Utah's code of criminal procedure, including guidance on how credit for time served should be established for incarcerated individuals. Generally, Title 77, Chapter 27, defines the responsibilities and processes of the Utah Board of Pardons and Parole, including how credit for time served is accounted for in determining an incarceration sentence.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments have been received by the Board regarding Rule R671-205 during or since the last five-year review.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is required as it outlines detailed processes the Board must follow in establishing any credit for previous time served when making incarceration duration decisions. Statute requires the Board to consider credit for time served as it makes prison release decisions. Therefore, this rule should be continued.

#### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Mike Haddon, Director of Administrative Services	<b>Date:</b>	11/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R671-207	Filing ID: 51821

#### Agency Information

<b>1. Department:</b>	Pardons (Board of)	
<b>Agency:</b>	Administration	
<b>Street address:</b>	448 E Winchester, Suite 300	
<b>City, state and zip:</b>	Murray, UT 84107	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mike Haddon	801-261-6467	mikehaddon@utah.gov
Please address questions regarding information on this notice to the agency.		

#### General Information

<b>2. Rule catchline:</b>
R671-207. Mentally Ill and Deteriorating Offender Custody Transfer
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Title 77, Chapter 16a, outlines processes and requirements associated with the commitment and treatment of individuals with a mental illness. Specifically, this chapter outlines processes required in transferring individuals with mental illness both to and from the prison system to the State Hospital.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments have been received by the Board regarding Rule R671-207 during or since the last five-year review.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is required because it provides two state entities, the Department of Corrections and the State Hospital, with the processes involving the transfer or movement of

mentally ill individuals between the prison system and the State Hospital, as well as the notifications required of each in relation to the Board of Pardons and Parole. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Mike Haddon, Director of Administrative Services	<b>Date:</b>	11/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R671-301</b>	<b>Filing ID: 51816</b>

**Agency Information**

<b>1. Department:</b>	Pardons (Board of)	
<b>Agency:</b>	Administration	
<b>Street address:</b>	448 E Winchester, Suite 300	
<b>City, state and zip:</b>	Murray, UT 84107	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mike Haddon	801-261-6467	mikehaddon@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R671-301. Personal Appearance
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Title 63G, Chapter 3, outlines the state's rulemaking process. Generally, Title 77, Chapter 27, outlines the responsibilities and processes for the Board of Pardons and Parole (Board), including requirements associated with convening public hearings and personal appearance hearings for incarcerated individuals.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments have been received by the Board regarding Rule R671-301 during or since the last five-year review.

<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is required because it provides necessary details on how the Board of Pardons and Parole conducts personal appearance hearings and when they are required by state statute. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Mike Haddon, Director of Administrative Services	<b>Date:</b>	11/24/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R671-303</b>	<b>Filing ID: 51817</b>

**Agency Information**

<b>1. Department:</b>	Pardons (Board of)	
<b>Agency:</b>	Administration	
<b>Street address:</b>	448 E Winchester, Suite 300	
<b>City, state and zip:</b>	Murray, UT 84107	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mike Haddon	801-261-6467	mikehaddon@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R671-303. Information Received, Maintained or Used by the Board
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Title 63G, Chapter 3, outlines the state's rulemaking process. Section 77-27-7 establishes a rulemaking requirement for the Board of Pardons and Parole (Board) related to its hearing processes. This includes the development of rules that detail when and how information is provided and used by the Board.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>

No written comments have been received by the Board regarding Rule R671-303 during or since the last five-year review.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule is required because the Board, by statute and case law, must provide offenders with access to information that may be used in making decisions. The rule defines processes more specifically than is provided in statute, and all parties interacting with the Board rely on these processes. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Mike Haddon, Director of Administrative Services	<b>Date:</b>	11/08/2021
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R671-304</b>	<b>Filing ID:</b>	<b>51818</b>
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**Agency Information**

<b>1. Department:</b>	Pardons (Board of)	
<b>Agency:</b>	Administration	
<b>Street address:</b>	448 E Winchester, Suite 300	
<b>City, state and zip:</b>	Murray, UT 84107	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mike Haddon	801-261-6467	mikehaddon@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R671-304. Hearing Record
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Title 63G, Chapter 3, outlines the state's rulemaking process. Generally, Title 77, Chapter 27, establishes operational processes and requirements for the Board of Pardons and Parole. This includes requirements associated with creating and maintaining a hearing record.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

No written comments have been received by the Board regarding Rule R671-304 during or since the last five-year review.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule is necessary because the Board the Pardons and Parole is required by statute to create and maintain audio records of all its hearings. The recorded hearings also must be made available to the public. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Mike Haddon, Director of Administrative Services	<b>Date:</b>	11/08/2021
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R671-305</b>	<b>Filing ID:</b>	<b>51819</b>
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**Agency Information**

<b>1. Department:</b>	Pardons (Board of)	
<b>Agency:</b>	Administration	
<b>Street address:</b>	448 E Winchester, Suite 300	
<b>City, state and zip:</b>	Murray, UT 84107	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mike Haddon	801-261-6467	mikehaddon@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R671-305. Board Decisions and Orders
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
The Utah Constitution in Article VII, Section 12, creates and provides authority for the Board of Pardons and Parole (Board). Title 63G, Chapter 3, outlines the state's rulemaking process. Generally, Title 77, Chapter 27,

establishes operational processes and requirements for the Board of Pardons and Parole including reducing its orders to writing.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

No written comments have been received by the Board regarding Rule R671-305 during or since the last five-year review.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule is necessary because it outlines the specific types of hearings conducted by the Board where orders must be reduced to a written order, as well as contain a brief rationale for the order. All such orders are then made available to the public via the Board's public website. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Mike Haddon, Director of Administrative Services	<b>Date:</b>	11/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R671-308</b>	<b>Filing ID: 51826</b>

**Agency Information**

<b>1. Department:</b>	Pardons (Board of)	
<b>Agency:</b>	Administration	
<b>Street address:</b>	448 E Winchester, Suite 300	
<b>City, state and zip:</b>	Murray, UT 84107	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mike Haddon	801-261-6467	mikehaddon@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R671-308. Offender Hearing Assistance

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

Generally, Title 77, Chapter 27, establishes operational processes and requirements for the Board of Pardons and Parole (Board) including the right to representation by legal counsel for certain offenders. Section 78A-9-103 provides a statutory prohibition for practicing law without a license.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

No written comments have been received by the Board regarding Rule R671-308 during or since the last five-year review.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule is necessary because it provides detailed information related to situations when the Board must appoint or provide legal counsel for offenders for certain types of hearings conducted. It further outlines situations and hearings where there is no expectation of a right to counsel for the offender. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Mike Haddon, Director of Administrative Services	<b>Date:</b>	11/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R671-310</b>	<b>Filing ID: 51827</b>

**Agency Information**

<b>1. Department:</b>	Pardons (Board of)	
<b>Agency:</b>	Administration	
<b>Street address:</b>	448 E Winchester, Suite 300	
<b>City, state and zip:</b>	Murray, UT 84107	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mike Haddon	801-261-6467	mikehaddon@utah.gov
Please address questions regarding information on this notice to the agency.		

## General Information

<b>2. Rule catchline:</b>
R671-310. Rescission Hearings
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Generally, Title 77, Chapter 27, establishes operational processes and requirements for the Board of Pardons and Parole (Board). Within this chapter are descriptions of situations where the Board may review and rescind a prior Board decision or order.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments have been received by the Board regarding Rule R671-310 during or since the last five-year review.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is necessary as it explains in greater detail when and how the Board may rescind a previous order or decision. A hearing conducted to review and potentially rescind a previous order or decision is referred to as a rescission hearing. Therefore, this rule should be continued.

## Agency Authorization Information

<b>Agency head or designee, and title:</b>	Mike Haddon, Director of Administrative Services	<b>Date:</b>	11/08/2021
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## FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Utah Admin. Code Ref (R no.):</b>	<b>R671-311</b>	<b>Filing ID:</b>	<b>51822</b>
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## Agency Information

<b>1. Department:</b>	Pardons (Board of)	
<b>Agency:</b>	Administration	
<b>Street address:</b>	448 E Winchester, Suite 300	
<b>City, state and zip:</b>	Murray, UT 84107	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mike Haddon	801-261-6467	mikehaddon@utah.gov

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

## General Information

<b>2. Rule catchline:</b>
R671-311. Special Attention Reviews, Hearings and Decisions
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
The Utah Constitution in Article VII, Section 12, establishes the Board of Pardons and Parole (Board) and outlines its authority. Title 63G, Chapter 3, outlines the state's rulemaking processes. Generally, Title 77, Chapter 27, establishes operational processes and requirements for the Board. Within this chapter, the Board is statutorily authorized to use special attention hearings or reviews to adjust parole conditions, review prior board decisions, and modify prior decisions. Title 64, Chapter 13, relates to the processes and requirements associated with the Department of Corrections.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments have been received by the Board regarding Rule R671-311 during or since the last five-year review.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is necessary as it provides for and explains the special attention process of the Board, including reviews and decisions. Much of the work of the Board is conducted through this specific process. This rule further outlines how the statutory earned time adjustment functions and where these adjustments may or may not be applicable. Therefore, this rule should be continued.

## Agency Authorization Information

<b>Agency head or designee, and title:</b>	Mike Haddon, Director of Administrative Services	<b>Date:</b>	11/08/2021
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## FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Utah Admin. Code Ref (R no.):</b>	<b>R671-315</b>	<b>Filing ID:</b>	<b>51829</b>
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## Agency Information

<b>1. Department:</b>	Pardons (Board of)
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<b>Agency:</b>	Administration	
<b>Street address:</b>	448 E Winchester, Suite 300	
<b>City, state and zip:</b>	Murray, UT 84107	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mike Haddon	801-261-6467	mikehaddon@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R671-315. Pardons
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
The Utah Constitution in Article VII, Section 12 establishes the Board of Pardons and Parole (Board) and outlines its authority. Generally, Title 77, Chapter 27, establishes operational processes and requirements for the Board. Utah's Constitution places pardon authority primarily with the Board. State statute provides a more specific delineation of that authority.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments have been received by the Board regarding Rule R671-315 during or since the last five-year review.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is necessary as it provides the specific process through which the Board exercises its Constitutional pardon authority. This includes information of how individuals may request a pardon from the Board, and how the Board will consider moving forward with a pardon hearing. This rule outlines specific requirements the Board must follow to notify crime victims and prosecuting entities of the pardon request and pardon hearing. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Mike Haddon, Director of Administrative Services	<b>Date:</b>	11/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R671-316</b>	<b>Filing ID: 51835</b>

**Agency Information**

<b>1. Department:</b>	Pardons (Board of)	
<b>Agency:</b>	Administration	
<b>Street address:</b>	448 E Winchester, Suite 300	
<b>City, state and zip:</b>	Murray, UT 84107	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mike Haddon	801-261-6467	mikehaddon@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R671-316. Redetermination
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
The Utah Constitution in Article VII, Section 12 establishes the Board of Pardons and Parole (Board) and outlines its authority. Title 63G, Chapter 3, outlines the state's rulemaking processes. Generally, Title 77, Chapter 27, establishes operational processes and requirements for the Board. Within this chapter, the process for the Board to consider new and additional information that may result in a reconsideration of a prior decision.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
No written comments have been received by the Board regarding Rule R671-316 during or since the last five-year review.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule is necessary as it provides the specific avenues available to the Department of Corrections or offenders to bring new, material, and significant information forward with a request that the Board reconsider a prior decision. This rule provides necessary clarity regarding what situations may merit a redetermination by the Board and the processes that must be followed prior to the Board reconsidering a prior decision. Therefore, this rule should be continued.

### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Mike Haddon, Director of Administrative Services	<b>Date:</b>	11/08/2021
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### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Utah Admin. Code Ref (R no.):</b>	<b>R671-403</b>	<b>Filing ID: 51831</b>
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### Agency Information

<b>1. Department:</b>	Pardons (Board of)	
<b>Agency:</b>	Administration	
<b>Street address:</b>	448 E Winchester, Suite 300	
<b>City, state and zip:</b>	Murray, UT 84107	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mike Haddon	801-261-6467	mikehaddon@utah.gov

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

### General Information

<b>2. Rule catchline:</b>
R671-403. Restitution

### 3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 64-13-30 outlines application of restitution for costs incurred while an individual is incarcerated, and Section 64-13-33 allows the Department of Corrections to administer fines for violations while an individual is incarcerated. Title 77, Chapter 27, relates to the Board of Pardons and Parole (Board) processes and responsibilities which includes a role in victim restitution processes. Title 77, Chapters 18 and 22, outline judgment processes in the criminal code which includes the establishment of restitution. Finally, Title 77, Chapter 38a, is the Crime Victims Reparation Act. Each of these chapters and sections combine to establish restitution processes in Utah's criminal justice system.

### 4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments have been received by the Board regarding Rule R671-403 during or since the last five-year review.

### 5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is needed because the Board continues to play an important role in the crime victim restitution process. This rule defines restitution from the perspective of the Board and establishes processes for determining restitution amounts and for making adjustments to restitution amounts. The Board may hold hearings related to requests for additional restitution or the modification of restitution, and this rule outlines how these hearings are requested and how they operate. Finally, this rule addresses the Board's ability to convert unpaid restitution into a civil judgment if not fully paid when an individual's sentence expires or terminates. Therefore, this rule should be continued.

### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Mike Haddon, Director of Administrative Services	<b>Date:</b>	11/10/2021
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### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Utah Admin. Code Ref (R no.):</b>	<b>R671-405</b>	<b>Filing ID: 51838</b>
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### Agency Information

<b>1. Department:</b>	Pardons (Board of)	
<b>Agency:</b>	Administration	
<b>Street address:</b>	448 E Winchester, Suite 300	
<b>City, state and zip:</b>	Murray, UT 84107	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mike Haddon	801-261-6467	mikehaddon@utah.gov

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

### General Information

<b>2. Rule catchline:</b>
R671-405. Parole Termination

### 3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

The Utah Constitution in Article VII, Section 12, establishes the Board of Pardons and Parole (Board) and outlines its authority. Title 63G, Chapter 3, outlines the state's rulemaking processes. Generally, Title 77, Chapter

27, establishes operational processes and requirements for the Board. Within this chapter, the authority of the Board to consider and terminate parole supervision of offenders released from prison and supervised in the community. Section 64-13-21 outlines how the Department of Corrections is to provide parole supervision, and Title 76, Chapter 3, establishes the punishment of prison and the supervision of released inmates onto parole.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

No written comments have been received by the Board regarding Rule R671-405 during or since the last five-year review.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule is necessary as it provides the specific implementation steps required for the Board to terminate parole supervision – thus terminate the offender's sentence. It outlines the reports and information the Board requires prior to considering parole termination and specifies that the Department of Corrections may submit a discretionary termination of parole prior to the expiration of a sentence. Finally, this rule defines and establishes the Earned Early termination of parole process. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Mike Haddon, Director of Administrative Services	<b>Date:</b>	11/08/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R861-1A</b>	<b>Filing ID: 52377</b>

**Agency Information**

<b>1. Department:</b>	Tax Commission	
<b>Agency:</b>	Administration	
<b>Building:</b>	Tax Commission Building	
<b>Street address:</b>	210 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84134	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chantay Asper	801-297-3901	casper@utah.gov

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

**General Information**

<b>2. Rule catchline:</b>
R861-1A. Administrative Procedures

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

Section 10-1-306 requires the State Tax Commission (Commission) to adopt rules to determine how delivered value of taxable energy is determined for purposes of the Municipal Energy Sales and Use Tax Act.

Section 10-1-405 authorizes the Commission to adopt rules to necessary to administer the Municipal Telecommunications Tax Act.

Section 41-1a-104 authorizes the Commission to make and enforce rules necessary to effectuate the Motor Vehicle Act.

Section 41-3-105 authorizes the Motor Vehicle Enforcement Division of the Commission to make rules necessary to carry out the purposes of the Motor Vehicle Business Regulation Act.

Section 52-4-207 requires the Commission to adopt a rule governing the use of electronic public meetings.

Section 59-1-206 authorizes the Commission to adopt rules to prescribe the procedures for hearing appeals to the Commission.

Section 59-1-207 requires the Commission to establish by rule the duties and responsibilities to be delegated to the executive director.

Section 59-1-210 authorizes the Commission to adopt rules and exercise powers necessary to perform the duties imposed by law in the administration and supervision of Utah tax laws. Also permits the adoption of rules to govern the Commission, executive director, division directors, and Commission employees in the performance of their duties.

Section 59-1-211 authorizes the Commission to adopt rules related to the administration of a uniform system of accounts.

Section 59-1-304 authorizes the Commission to make rules to simplify and expedite the administrative remedies that must be exhausted before a person may be included as a member of a class action related to a tax or a fee.

Section 59-1-401 authorizes the Commission to prescribe what constitutes a return, affidavit, or claim for purposes of a tax or a fee.

Section 59-1-403 authorizes the Commission to adopt rules related to the sharing of data with the federal government, another state, a political subdivision of this state, and a political subdivision of another state. This section also authorizes the Commission to adopt rules related to sharing information of taxpayers who have failed to file a return or pay a tax that is due.

Section 59-1-404 authorizes the Commission to define "commercial information" for purposes of prescribing the circumstances under which information is intended for public use and may be disclosed.

Section 59-1-405 requires that the Commission adopt rules to establish the procedures for holding and recording a meeting that is not open to the public to conduct a hearing on, discuss, or take action on a confidential tax matter.

Section 59-1-1404 authorizes the Commission to make rules designating approved delivery services for purposes of document delivery and establishing the procedures for determining date of delivery.

Section 59-1-1410 authorizes the Commission to make rules describing the persons who are eligible for a refund of an erroneously paid liability.

Section 59-2-704 authorizes the Commission to adopt rules to establish the method, procedure, and timetable for counties to annually evaluate the county's appraisal performance of taxable real property.

Section 59-2-1004 requires the Commission to adopt rules providing for the circumstances under which the county board of equalization is required to accept a late filed appeal.

Section 59-5-204 authorizes the Commission to adopt rules reasonable and necessary to obtain information for the proper enforcement of the Severance Tax on Oil, Gas, and Mining.

Section 59-6-104 authorizes the Commission to make rules necessary to effectuate the purposes of Mineral Production Tax Withholding.

Section 59-7-405 authorizes the Commission to make rules as necessary to reflect a corporation's tax liability and to prevent avoidance of corporate tax liability.

Section 59-7-707 authorizes the Commission to make rule necessary to administer the income taxation of S-corporations.

Section 59-8-106 authorizes the Commission to promulgate rules as required to effectuate the Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act.

Section 59-10-501 authorizes the Commission to make rules to allow a taxpayer to submit excerpts from their federal income tax return rather than the entire return.

Section 59-11-113 authorizes the Commission to make rules necessary for the enforcement of the purposes of the Inheritance Tax Act.

Section 59-12-107 authorizes the Commission to prescribe by rule the form and the information that must be contained in a return filed under the Sales and Use Tax Act.

Section 59-12-111 authorizes the Commission to make rules to prescribe the filing and payment requirements to enforce the Sale and Use Tax Act.

Sections 59-13-202.5 and 59-13-210 authorize the Commission to make rules to enforce the tax on Motor Fuel.

Sections 59-13-313 and 59-13-322 authorize the Commission to make rules to enforce the tax on Special Fuel.

Section 59-14-607 authorizes the Commission to make rules necessary to enforce the provisions of the Tobacco Manufacturer Stamping Enforcement Provisions.

Section 59-23-7 authorizes the Commission to make rules to implement and enforce the Brine Shrimp Royalty Act.

Section 59-24-108 authorizes the Commission to make rules to implement and enforce the Radioactive Waste Facility Tax Act.

Section 59-26-106 authorizes the Commission to make rules to implement and enforce the Multi-Channel Video or Audio Service Tax Act.

Section 63G-3-201 requires the Commission to make rules when an agency action authorizes, requires, or prohibits an action or material benefit. Requires the Commission to make rules when an agency action applies to a class of persons or is implicitly authorized in statute. Also requires the Commission to make rules to issue written interpretations of state or federal legal mandates.

Section 63G-4-201 authorizes the Commission to make rules to prescribe the procedure by which a person initiates adjudicative proceedings related to requested agency action.

Section 63G-4-202 authorizes the Commission to make rules to designate categories of adjudicative proceedings to be conducted informally.

Section 63G-4-203 requires that an agency permitting informal adjudicative proceedings to make rules prescribing the procedures for those proceedings.

Section 63G-4-204 authorizes the Commission to make rules related to the permitted or required pleadings in formal adjudicative proceedings.

Section 63G-4-205 authorizes the Commission to make rules related to the permitted form of discovery in formal adjudicative proceedings.

Section 63G-4-503 requires an agency to issue rule prescribing the procedures and circumstances related to the agency issuing declaratory orders.

Section 69-2-401 authorizes the Commission to determine by rule the requirements and procedures for administering, collecting, and enforcing the charges levied under the Prepaid Wireless Telecommunication Service Charges.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

The Commission is not aware of any written comments received regarding this rule since the last five-year review.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

Section R861-1A-2 clarifies the process by which the Commission makes rules, including notice, hearing, and publication of rules.

Section R861-1A-3 allows persons or parties affected by a Commission action the right to a division conference and a prehearing conference for the purpose clarifying and narrowing the issues and encouraging settlement.

Section R861-1A-9 clarifies duties and responsibilities of the commission when acting as the Utah State Board of Equalization; provides procedures for a person to file an appeal of a county board of equalization determination with the commission.

Section R861-1A-10 provides instructions concerning: 1) rights of parties; 2) effect of partial invalidation of rules; 3) enactment of inconsistent legislation; and 4) presumption of familiarity.

Section R861-1A-11 clarifies the process of appealing a corrective action.

Section R861-1A-12 outlines the policies and procedures of the commission regarding disclosure of and access to documents, work papers, decisions, and other information prepared by the commission.

Section R861-1A-13 outlines the manner by which disabled persons may request reasonable accommodations to services, programs, activities, or a job or work environment at the Commission.

Section R861-1A-15 requires all taxpayers to provide the Commission with their social security number or federal identification number, as required by the Commission.

Section R861-1A-16 outlines the management plan of the Commission.

Section R861-1A-18 indicates how remittances received by the Commission shall be allocated to penalty, interest and tax.

Section R861-1A-20 provides guidelines on the timeliness of requests for a hearing to correct a centrally assessed property tax assessment, a petition for redetermination, and those seeking judicial review.

Section R861-1A-22 clarifies the time a petition for adjudicative action may be filed and the contents of the petition; does not allow the Commission to reject a petition because of nonconformance but allows the Commission to require an amended or substitute petition be filed.

Section R861-1A-23 requires all matters to be designated as formal proceedings and set for a prehearing conference, initial hearing, or scheduling conference; allows matters to be diverted to mediation.

Section R861-1A-24 provides guidelines for a formal adjudicative proceeding, including the initial hearing.

Section R861-1A-26 outlines procedures to be followed in a formal adjudicative proceeding.

Section R861-1A-27 establishes discovery procedures in a formal proceeding.

Section R861-1A-28 authorizes formal proceedings to be conducted the same as in judicial proceedings in the state court; allows every party the right to introduce evidence and provides guidelines on testimonies.

Section R861-1A-29 clarifies that the presiding officer shall submit all written decisions and orders to the commission for agency review before issuing the order; authorizes any party to file a written request for reconsideration alleging mistake of law or fact, or discovery of new evidence.

Section R861-1A-30 prohibits any party from having an ex parte communication with a commissioner or administrative law judge; provides guidelines if relevant ex parte communications are received by a commissioner or administrative law judge.

Section R861-1A-31 provides for situations when a petition for a declaratory order may be filed; authorizes the Commission to refuse to render the order under certain circumstances.

Section R861-1A-32 authorizes the use of mediation to obtain a settlement agreement.

Section R861-1A-33 defines "settlement agreement;" outlines procedures to be followed for submitting and approving settlement agreements.

Section R861-1A-34 defines private letter rulings; provides procedures for requesting a private letter ruling; indicates the weight afforded a private letter ruling, as well as actions that may be taken if the ruling leads to the denial of a claim, audit assessment, or other agency action.

Section R861-1A-35 defines "database management system," "electronic data interchange," "hard copy," "machine-sensible record," "storage-only imaging system," and "taxpayer;" provides guidelines for storage of records in various media.

Section R861-1A-36 clarifies what constitutes a signature for taxpayers who submit a vehicle registration over the internet, or a tax return through an authorized web site.

Section R861-1A-37 defines "assessed value of the property," "disclosure," and "published decision;" indicates property tax information that may be disclosed – in general, during an action or proceeding, or in a published decision.

Section R861-1A-38 indicates the actions the commission may take to expedite exhaustion of administrative remedies for purposes of determining the persons who may be included in a class action.

Section R861-1A-39 defines "failure to file a tax return" and "unpaid tax" for purposes of imposing the penalty for failure to file a tax return.

Section R861-1A-40 indicates how a taxpayer that seeks judicial review of a final commission determination of a deficiency may apply for a waiver of the requirement to post a bond with the Commission.

Section R861-1A-42 provides the circumstances that constitute reasonable grounds for waiver of a penalty.

Section R861-1A-43 provides the conditions under which a tax commissioner may participate electronically in a public meeting.

Section R861-1A-44 for purposes of determining the date on which a document has been mailed, sets forth delivery services and the date a delivery service receives a document.

Section R861-1A-45 sets forth the procedures the Commission shall follow when the commission holds a meeting that is not open to the public, including procedures for written and recorded minutes.

Section R861-1A-46 defines a purchaser refund request; indicates the information that must be submitted to the commission when submitting a purchaser refund request; and provides procedures for the Commission to verify the accuracy of the purchaser refund request.

Therefore, this rule should be continued.

#### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Rebecca L. Rockwell, Commissioner	<b>Date:</b>	11/09/2021
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#### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Utah Admin. Code Ref (R no.):</b>	<b>R865-3C</b>	<b>Filing ID:</b>	<b>52059</b>
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#### Agency Information

<b>1. Department:</b>	Tax Commission	
<b>Agency:</b>	Auditing	
<b>Building:</b>	Tax Commission Building	
<b>Street address:</b>	210 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84134	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chantay Asper	801-297-3901	casper@utah.gov

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

#### General Information

<b>2. Rule catchline:</b>
R865-3C. Corporation Income Tax
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 59-7-302 authorizes the Tax Commission (Commission) to define "economic activity" for purposes of the Corporate Income Tax.
Section 59-7-319 authorizes the Commission to prescribe by rule the circumstances when a purchaser of a service receives a greater benefit of the service in this state than in any other single state or foreign country.
Section 59-7-405 authorizes the Commission to make rules as necessary to reflect a corporation's tax liability and to prevent avoidance of corporate tax liability.
Section 59-7-707 authorizes the Commission to make rule necessary to administer the income taxation of S-corporations.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

The Commission is not aware of any written comments received regarding this rule since the last five-year review.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

Section R865-3C-1 indicates how a corporation subject to the corporation income tax shall determine the net income attributable to Utah.

Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Rebecca L. Rockwell, Commissioner	<b>Date:</b>	11/09/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R865-4D</b>	<b>Filing ID: 52067</b>

**Agency Information**

<b>1. Department:</b>	Tax Commission	
<b>Agency:</b>	Auditing	
<b>Building:</b>	Tax Commission Building	
<b>Street address:</b>	210 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84134	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chantay Asper	801-297-3901	casper@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R865-4D. Special Fuel Tax
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 59-13-301 requires the Tax Commission (Commission) to make rules governing the application and refund of special fuel tax paid by the United States Government, its instrumentalities, this state, and political subdivisions of this state. This section also requires rules

governing the application and refund for special fuel tax paid for off-highway and nonhighway uses of special fuel; and requires rules governing the reduction in the special fuel tax under certain circumstances for special fuel sold by the Navajo Nation.

Section 59-13-301.5 authorizes the Commission to make rules regarding the procedures for seeking a refund for special fuel tax paid under an agreement with the Ute Tribe.

Sections 59-13-313 and 59-13-322 authorize the Commission to make rules to administer and enforce the tax on Special Fuel.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

The Commission is not aware of any written comments received regarding this rule since the last five-year review.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

Section R865-4D-1 defines "motor vehicle" and "user" for purposes of imposing the special fuels tax.

Section R865-4D-2 provides guidance on when the fee for the special fuel tax exemption certificate shall be paid; clarifies when the special fuel tax exemption applies; outlines formula for calculating fuel use.

Section R865-4D-6 sets forth the record-keeping requirements for special fuel user-dealers.

Section R865-4D-18 sets forth the record-keeping requirements for special fuel users.

Section R865-4D-19 outlines how a government entity is to obtain a refund for special fuel taxes paid and indicates records needed to support the refund.

Section R865-4D-20 indicates the conditions under which the exemption or refund for exported undyed diesel fuel shall apply.

Section R865-4D-21 defines "gross gallon" and "net gallon;" requires suppliers to calculate tax liability on a consistent gross gallon or net gallon basis; specifies that both gross and net amounts must be on all invoices, bills of lading, and special fuel tax returns.

Section R865-4D-22 provides procedures for administering the reduction of special fuel tax on fuel that is subject to a tax imposed by the Navajo Nation.

Section R865-4D-23 indicates that the Commission entered into the International Fuel Tax Agreement effective January 1, 1990.

Section R865-4D-24 provides the conditions under which the commission may determine that a special fuels tax licensee has ceased doing business or changed address and provides procedures for the Commission to then invalidate that license.

Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Rebecca L. Rockwell, Commissioner	<b>Date:</b>	11/09/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R865-6F</b>	<b>Filing ID: 52068</b>

**Agency Information**

<b>1. Department:</b>	Tax Commission	
<b>Agency:</b>	Auditing	
<b>Building:</b>	Tax Commission Building	
<b>Street address:</b>	210 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84134	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chantay Asper	801-297-3901	casper@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R865-6F. Franchise Tax
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 53B-8a-112 authorized the Tax Commission (Commission) in consultation with the Utah Board of Higher Education and the Utah Educational Savings Plan to adopt rules necessary to monitor and implement the tax provisions related to the Utah Educational Savings Plan's property and income.
Section 59-1-101 authorizes the Commission to define by rule "established securities market"; "cash or cash equivalents"; and "listed Australian property trust" for purposes of captive insurance companies and captive real estate investment trusts. Also authorizes the Commission to define "member"; "producer"; and what constitutes an

association, corporation, or organization of farmers or fruit growers. Additionally, authorizes the Commission to define "Taxable year" in situation where a return is made for a fractional part of a year.

Section 59-1-1302 authorizes the Commission to identify by rule certain transactions that are "listed transactions" or "reportable transactions" for purposes of the corporate income or franchise tax.

Sections 59-1-1303, 59-1-1306, and 59-1-1307 requires the Commission to make rules describing the manner in which a taxpayer shall disclose a reportable transaction for purposes of the corporate income and franchise tax.

Section 59-7-106 authorizes the Commission to define what constitutes income generated from intangible property or a capital gain, dividend, interest, rent, royalty, or other similar item that is generated from an asset held for investment and not from the regular business trading activity. Also authorized the Commission to define an "amortization expense", a "depreciation expense", a "gain", and a "loss" for purposes of determining adjusted gross income.

Section 59-7-107 authorizes the Commission to establish rules determining permissible adjustments to basis in a combined report.

Section 59-7-114 authorizes the Commission to prescribe rules as necessary to provide for the equitable treatment of any transaction subject to Section 338, Internal Revenue Code.

Section 59-7-115 authorizes the Commission to prescribe rules as necessary to provide for the equitable treatment of any transaction subject to Section 336(e), Internal Revenue Code.

Section 59-7-117 requires the Commission to prescribe by rule adjustments to Utah taxable income necessary to avoid a double tax benefit or detriment.

Section 59-7-302 authorizes the Commission to define "activity" for purposes of the Corporate Income and Franchise Tax.

Section 59-7-319 authorizes the Commission to prescribe by rule the circumstances when a purchaser of a service receives a greater benefit of the service in this state than in any other single state or foreign country.

Section 59-7-405 authorizes the Commission to make rules as necessary to reflect a corporation's tax liability and to prevent avoidance of corporate tax liability.

Section 59-7-503 authorized the Commission to prescribe by rule the circumstances under which a short period corporate income or franchise tax return must be filed.

Section 59-7-614 authorizes the Commission to make rules to address the certification of a renewable energy systems tax credit.

Section 59-7-707 authorizes the Commission to make rule necessary to administer the income taxation of S-corporations.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

The Commission is not aware of any written comments received regarding this rule since the last five-year review.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

Section R865-6F-1 clarifies franchise tax responsibilities of foreign corporations. Also, clarifies the manner in which a foreign corporation terminates its corporate franchise tax responsibilities.

Section R865-6F-2 establishes taxable year for purposes of the corporate franchise tax and clarifies when first return period begins.

Section R865-6F-6 sets forth guidelines to determine whether nexus has been established for purposes of subjecting a corporation to the Utah corporation franchise tax.

Section R865-6F-8 classifies all business income as either "business" or "nonbusiness," provides rules to determine whether income is business or nonbusiness, defines and establishes criteria for apportionment of tax, and defines the three elements of the apportionment formula: the property factor, payroll factor, and sales factor.

Section R865-6F-14 states the Commission policy to follow federal law as closely as possible in determining net income for Utah corporate franchise tax. The section lists items normally followed in conformity with federal law and items requiring different state tax treatment.

Section R865-6F-15 clarifies that the installment method of reporting corporate income is a postponement of tax, not an exemption from tax. This section states when the privilege of installment reporting is terminated. This section also states that installment income is subject to the same allocation and apportionment provisions as all other corporate income.

Section R865-6F-16 provides a methodology for apportioning income from long-term construction projects when a taxpayer elects to use the percentage-of-completion method of accounting or the completed contract method of accounting.

Section R865-6F-18 defines "member" and "producer" for purposes of the corporate franchise and income tax

exemption for a farmers' cooperative; provides procedures for qualifying for and applying the exemption.

Section R865-6F-19 provides a methodology for apportioning trucking company income to Utah.

Section R865-6F-22 defines "worldwide year" and "water's edge year" in treatment of carrybacks and carry forwards, and notes criteria and penalties for switching from worldwide method to water's edge or from water's edge method to worldwide method.

Section R865-6F-24 provides that, in the case of a unitary group, nexus created by any member of the group creates nexus for the entire unitary group.

Section R865-6F-26 provides instructions for applying for and receiving historic preservation tax credit, and any subsequent carryforwards of that credit.

Section R865-6F-27 provides that the order of deducting credits against the corporate franchise tax is: 1) nonrefundable credits; 2) nonrefundable credits with a carryforward; and 3) refundable credits.

Section R865-6F-29 provides a methodology for apportioning railroad income to Utah.

Section R865-6F-30 sets forth the information a trustee of the Utah Educational Savings Plan Trust must provide to the Commission and the forms necessary to provide this information to the Commission.

Section R865-6F-31 defines "outer-jurisdictional property," "print," "printed materials," "purchaser," "subscriber," and "terrestrial facility." Provides a methodology for apportioning income of publishing companies to the state for franchise tax purposes.

Section R865-6F-32 provides a methodology for apportioning the income of financial institutions to the state for franchise tax purposes. Defines terms related to financial institutions.

Section R865-6F-33 defines terms related to telecommunications corporations; provides a methodology for apportioning and allocating income for telecommunications corporations to the state for purposes of franchise tax.

Section R865-6F-36 defines terms for registered securities or commodities brokers or dealers; provides a methodology for apportioning the income of registered securities or commodities brokers or dealers to the state for corporate franchise and income tax purposes.

Section R865-6F-37 indicates how a taxpayer shall disclose a reportable transaction to the Commission and how a material advisor shall disclose a reportable transaction to the Commission.

Section R865-6F-38 provides that, in the absence of fraud, the amount certified as qualifying for the renewable energy systems tax credit shall be the amount allowed by the Commission as a credit.

Section R865-6F-39 defines captive real estate investment trust for purposes of the addition to unadjusted income required to compute the taxable income of a captive real estate investment trust.

Section R865-6F40 indicates that the activities of a partnership are taken into consideration in determining whether a corporation qualifies as a foreign operating company.

Therefore, this rule should be continued.

#### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Rebecca L. Rockwell, Commissioner	<b>Date:</b>	11/09/2021
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#### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Utah Admin. Code Ref (R no.):</b>	<b>R865-7H</b>	<b>Filing ID: 52062</b>
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#### Agency Information

<b>1. Department:</b>	Tax Commission	
<b>Agency:</b>	Auditing	
<b>Building:</b>	Tax Commission Building	
<b>Street address:</b>	210 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84134	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chantay Asper	801-297-3901	casper@utah.gov

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

#### General Information

<b>2. Rule catchline:</b>
R865-7H. Environmental Assurance Fee

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

Section 19-6-410.5 requires the Tax Commission (Commission) to make rules to establish the method of payment of the environmental assurance fee; the procedure for reimbursement or exemption of an owner or

operator that does not participate in the program; and the procedure for confirming with the Department of Environmental Quality that an owner or operator qualifies for reimbursement or exemption.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

The Commission is not aware of any written comments received regarding this rule since the last five-year review.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

Section R865-7H-1 sets the guidelines for owners or operators of tanks, including above-ground storage tanks, to obtain an exemption from the Environmental Assurance Fee, if they do not participate in the Environmental Assurance Program.

Section R865-7H-2 sets the guidelines for exemptions from the environmental assurance fee on packaged petroleum products, or bulk petroleum products which are brought into Utah and subsequently repackaged; provides guidelines for qualified individuals to obtain a refund of environmental assurance fees, no more often than on a monthly basis.

Section R865-7H-3 sets guidelines for an exemption from the environmental assurance fee for petroleum products exported from a refinery directly out of state; or for petroleum products not stored in a tank covered by the Environmental Assurance Program which are subsequently exported from the state. Explains that qualified individuals may apply for a refund of those fees paid, no more often than on a monthly basis.

Therefore, this rule should be continued.

#### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Rebecca L. Rockwell, Commissioner	<b>Date:</b>	11/09/2021
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#### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Utah Admin. Code Ref (R no.):</b>	<b>R865-9I</b>	<b>Filing ID: 52579</b>
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#### Agency Information

<b>1. Department:</b>	Tax Commission
<b>Agency:</b>	Auditing
<b>Building:</b>	Tax Commission Building
<b>Street address:</b>	210 N 1950 W

<b>City, state and zip:</b>	Salt Lake City, UT 84134	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chantay Asper	801-297-3901	casper@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R865-9I. Income Tax
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
<p>Section 31A-32a-106 authorizes the Tax Commission (Commission) to adopt rules necessary to implement the medical care savings account tax deduction.</p> <p>Section 53B-8a-112 authorizes the Tax Commission to adopt rules necessary to implement the educational saving plan tax deduction.</p> <p>Section 59-1-210 authorizes the Commission to adopt rules and exercise powers necessary to perform the duties imposed by law in the administration and supervision of Utah tax laws. Also permits the adoption of rules to govern the Commission, executive director, division directors, and Commission employees in the performance of their duties.</p> <p>Section 59-1-401 authorizes the Commission to prescribe what constitutes a return, affidavit, or claim for purposes of a tax or a fee.</p> <p>Sections 59-10-120 and 59-10-121 authorize the Commission to prescribe by rule the individual income tax filing requirements and apportionment methodology to be applied if an individual's residency status changes during a taxable year.</p> <p>Sections 59-10-124 and 59-10-125 authorize the Commission to make rules require an adjustment to taxable income to account for differences in accounting methodology between tax years.</p> <p>Section 59-10-136 authorizes the Commission to define by rule what constitutes spending a day of the taxable year in the state for purposes of Utah domicile.</p> <p>Section 59-10-207 authorizes the Commission to establish by rule one or more methods of determining the shares of a beneficiary in the income and deductions of an estate or trust.</p> <p>Section 59-10-209.1 authorizes the Commission to make rules to allow for an adjustment of unadjusted gross</p>

<p>income for the purpose of preventing a double tax benefit or detriment.</p> <p>Section 59-10-210 authorizes the Commission to make rules for determining the allocation of fiduciary adjustments to ensure an equitable allocation of income.</p> <p>Sections 59-10-402, 59-10-403, 59-10-406, and 59-10-408 require and authorize the commission to make any rules necessary to prescribe employer withholding requirements.</p> <p>Section 59-10-406 authorizes the Commission to designate by rule the federal form.</p> <p>Section 59-10-501 authorizes the Commission to make rules to allow a taxpayer to submit excerpts from their federal income tax return rather than the entire return.</p> <p>Section 59-10-512 authorizes the Commission to make rules prescribing return signature requirements.</p> <p>Section 59-10-514 authorizes the Commission to make rules prescribing what constitutes an individual income tax return.</p> <p>Sections 59-10-515, 59-10-517, and 59-10-519 authorize and require the Commission to fix by rule the acceptable time and place for filing documents related to an individual income tax return.</p> <p>Sections 59-10-527 and 59-10-529 authorize the Commission to make rules prescribing the assessment and collection of liabilities under Title 59, Chapter 10.</p> <p>Section 59-10-1003 requires the Commission to make rules prescribing the computation of the tax credit for taxes paid by an individual to another state.</p> <p>Section 59-10-1006 requires the Commission to make any rules necessary to implement the historic preservation tax credit.</p> <p>Section 59-10-1007 requires the Commission to make rules prescribing the information that must be filed with the Commission to verify the entitlement to and the amount of the recycling market development zone tax credit.</p> <p>Section 59-10-1010 authorizes the Commission to make any rules necessary to implement the Utah low income housing tax credit.</p> <p>Section 59-10-1012 authorizes the Commission to make rules prescribing the certification process for qualified organization to ensure the amounts paid to the qualified organizations are for basic research conducted in this state for purposes of the tax credit for research activities conducted in the state.</p> <p>Section 59-10-1028 authorizes the Commission to make any rules necessary to implement the tax credit for capital</p>
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gain transaction on the exchange of one form of legal tender for another form of legal tender.

Section 59-10-1042 authorizes the Commission to make rules governing the calculation and method of claiming the tax credit for social security benefits.

Section 59-10-1106 authorizes the Commission to make any rules necessary to address the certification of the refundable renewable energy systems tax credit.

Section 59-10-1113 authorizes the Commission to make any rules necessary to address the certification of the refundable tax credit for nonrenewable hydrogen production systems.

Section 59-10-1403.1 authorizes the Commission to make rules for a pass-through entity taxpayer who is not a Utah resident, to file a return under Title 59, Chapter 10.

Sections 59-10-1403.2 and 59-10-1405 require and authorize the Commission to make rules determining the tax a pass-through entity shall pay on behalf of a pass-through entity taxpayer for a taxable year.

Section 59-10-1403.3 authorizes the Commission to make rules establishing the information that a pass-through entity shall provide to the commission to obtain a refund of qualifying excess withholding.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

The Commission is not aware of any written comments received regarding this rule since the last five-year review.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

Section R865-9I-2 defines "resident," "resident taxpayer," "nonresident," "nonresident taxpayer," "part year resident," and "domicile" and clarifies domicile for purposes of a person in active military service.

Section R865-9I-3 provides instructions on how to file for an income tax credit for income taxes paid to another state.

Section R865-9I-6 provides instructions for a husband and wife, if either one is a nonresident, to file separate returns even though they filed a joint federal return; provides a method to determine each spouse's FAGI when they qualify to file separate state returns.

Section R865-9I-7 provides definitions of "part year resident" and "FAGI", provides instructions for determining the FAGI of a part-year resident and a business with income from within and without Utah.

R864-9I-8 provides that two returns are not required when an individual changes status as resident or nonresident, except in unusual circumstances.

Section R865-9I-9 provides instructions for calculating a taxpayer's taxable state income when required to convert income from a period of less than a year to an annual basis for federal tax purposes.

Section R865-9I-10 states that a taxpayer must include a statement setting forth all differences when an alternate method of accounting is used to compute income from the method used the previous year.

Section R865-9I-13 provides guidance for pass-through entity required withholding of Utah income tax from certain taxpayers.

Section R865-9I-14 requires withholding only on Utah income and allows credit for withholding paid to another state. Provides instructions to employers regarding withholding of wages, including income subject to withholding, the number of exemptions that may be claimed, and use of tables published by the Commission.

Section R865-9I-15 states that an employer need not withhold wages from an employee with a federal withholding certificate.

Section R865-9I-16 prescribes the forms necessary to file withholding returns and sets forth penalties incurred by employers not filing properly. This section also prescribes information that must be on W-2 form.

Section R865-9I-17 establishes conditions for employers to file withholding returns on a monthly basis and directions for filing monthly.

Section R865-9I-18 clarifies taxpayer responsibility to keep and store adequate records for income tax purposes.

Section R865-9I-19 clarifies whether a joint return or a separate return should be filed in a year in which one spouse dies.

Section R865-9I-20 clarifies when a fiduciary is required to file a return and the information required to be on the fiduciary return and establishes liability for payment of the estate's or trust's taxes.

Section R865-9I-21 provides income tax filing instructions for individuals involved in a partnership. Clarifies method of filing if one member of partnership is a nonresident and the partnership has income from inside and outside the state.

Section R865-9I-22 clarifies that any return filed with the tax commission is not valid unless the sender signs the return. Also, clarifies the conditions a taxpayer must satisfy to file returns on reproduced or facsimile copies of state tax returns.

Section R865-91-23 provides information for prepaying income tax. This rule indicates when interest shall be charged on a return filed pursuant to an extension, and the amount of extension Utah residents in military service stationed outside the U.S. have to file their return.

Section R865-91-24 clarifies that provisions relating to prima facie evidence of delivery and the postmark date on registered mail from the United States postal system apply to certified mail as well.

Section R865-91-30 provides for a taxpayer to waive the statute of limitations in order to determine whether an activity is engaged in for profit.

Section R865-91-33 states that all Utah residents keeping forms for reporting rents, royalties, interest, and remuneration from Utah sources not subject to federal withholding must make them available to authorized representatives of the Commission or submit them to the Commission upon request.

Section R865-91-34 states that, for property tax relief purposes, individuals living in an owned trailer home situated on rented land must complete two computations: 1) for property taxes on the mobile home; and 2) for the rental of the land, excluding charges for utilities, services, or furnishings supplied by the landlord. This section also states what portions of renter received assistance may be included in rent paid.

Section R865-91-41 provides instructions for applying for and receiving historic preservation tax credit, and any subsequent carryforwards of that credit.

Section R865-91-42 provides that the order of deducting credits against individual income tax is: 1) nonrefundable credits; 2) nonrefundable credits with a carryforward; and 3) refundable credits.

Section R865-91-44 defines "professional athletic team", "member of a professional athletic team," and "duty days" for purposes of apportioning income subject to Utah tax for all professional athletes performing in the ; provides that a professional athletic team is an employer required to withhold state income tax from the team members.

Section R865-91-46 requires medical savings account administrators to file information on each account they administer, along with a reconciliation, with the Commission on an annual basis. This rule outlines the content of the form, along with record keeping requirements and the necessity of each account holder to attached the form to their state return.

Section R865-91-47 states that combat pay is excluded from withholding requirements and provides an extension of time to pay income taxes for individuals receiving combat pay.

Section R865-91-49 requires the trustee of the Utah Educational Savings Plan Trust to provide trust

participants and the Commission with certain information on the status of the participant's account with the trust.

Section R865-91-50 indicates when the addition to federal taxable income for interest on certain bonds shall apply.

Section R865-91-51 provides conditions under which a withholding tax licensee will be considered to have changed the licensee's business address or ceased to do business.

Section R865-91-52 provides that a credit for health benefit plan insurance shall be determined in the manner that provides the greatest possible credit.

Section R865-91-53 indicates how a taxpayer shall disclose a reportable transaction to the Commission and how a material advisor shall disclose a reportable transaction to the Commission.

Section R865-91-55 provides that a qualified subchapter S subsidiary shall be treated in the same manner for Utah taxes as it is for federal taxes.

Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Rebecca L. Rockwell, Commissioner	<b>Date:</b>	11/09/2021
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R865-11Q</b>	<b>Filing ID: 52063</b>
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**Agency Information**

<b>1. Department:</b>	Tax Commission
<b>Agency:</b>	Auditing
<b>Building:</b>	Tax Commission Building
<b>Street address:</b>	210 N 1950 W
<b>City, state and zip:</b>	Salt Lake City, UT 84134

<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chantay Asper	801-297-3901	casper@utah.gov

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

**General Information**

<b>2. Rule catchline:</b>
R865-11Q. Self-Insured Employer Assessment

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

Section 34A-2-202 requires the Tax Commission (Commission) to establish by rule the reasonable time period within which a self-insured employer paying compensation must obtain an experience modification factor.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

The Commission is not aware of any written comments received regarding this rule since the last five-year review.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

Section R865-11Q-1 clarifies when employers need to obtain the experience modification factor and provides direction for those who fail to obtain the factor within the specified time.

Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Rebecca L. Rockwell, Commissioner	<b>Date:</b>	11/09/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R865-12L</b>	<b>Filing ID: 52064</b>

**Agency Information**

<b>1. Department:</b>	Tax Commission	
<b>Agency:</b>	Auditing	
<b>Building:</b>	Tax Commission Building	
<b>Street address:</b>	210 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84134	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chantay Asper	801-297-3901	casper@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R865-12L. Local Sales and Use Tax

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

Section 59-1-210 authorizes the Tax Commission (Commission) to adopt rules and exercise powers necessary to perform the duties imposed by law in the administration and supervision of Utah tax laws.

Section 59-1-403 authorizes the Commission to make a rule establishing the procedure and circumstances for sharing sales and use tax data with the political subdivisions of this state.

Section 59-12-107 authorizes the Commission to establish by rule the form and information that must be filed for purposes of sales and use taxation. Additionally, authorizes the Commission to extend the time for making returns and paying the taxes.

Section 59-12-210.1 authorizes the Commission to define "extraordinary circumstances" for purposes of a redistribution of local sale and use tax revenue.

Section 59-12-211 authorizes the Commission to make rules to establish the method by which a location of a transaction is determined if a seller or certified service provider is unable to determine the local taxing jurisdiction in which the transaction occurred.

Section 69-2-303 authorizes the Commission to define "extraordinary circumstances" for purposes of a redistribution of 911 emergency service charges.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

The Commission is not aware of any written comments received regarding this rule since the last five-year review.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

Section R865-12L-1 provides that all rules made with respect to the state sales and use tax shall apply to the local sales and use tax.

Section R865-12L-3 permits use of sales tax rate charts to determine sales tax due on a taxable sale.

Section R865-12L-4 requires that the local sales and use tax be reported to the Commission on a combined return with the state sales and use tax.

Section R865-12L-11 outlines the sales tax liability of a person who purchases a motor vehicle from someone other than a licensed dealer.

Section R865-12L-14 provides procedures for local governing bodies' review of local sales and use taxes remitted by businesses located within that political subdivision. Rule R865-12L also provides procedures for corrections for firms omitted from the list of a particular political subdivision or firms listed but not doing business in the jurisdiction of the political subdivision and defines "de minimis" and "extraordinary circumstances" for purposes of a redistribution of sales tax revenues.

Section R865-12L-17 defines "primary business," and "retail establishment," and provides guidance necessary to administer the restaurant tax.

Section R865-12L-18 clarifies the Commission's exclusive authority to administer and enforce the local sales and use tax and lists the circumstances under which local governments: 1) shall have access to the Tax Commission records; and 2) may intervene in or appeal from a proposed final Commission action.

Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Rebecca L. Rockwell, Commissioner	<b>Date:</b>	11/09/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R865-13G</b>	<b>Filing ID: 52074</b>

**Agency Information**

<b>1. Department:</b>	Tax Commission	
<b>Agency:</b>	Auditing	
<b>Building:</b>	Tax Commission Building	
<b>Street address:</b>	210 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84134	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chantay Asper	801-297-3901	casper@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R865-13G. Motor Fuel Tax
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 59-13-201 requires the Tax Commission (Commission) to make rules governing the procedures for administering the tax exemption for motor fuel that is sold to the United States government, this state, or the political subdivisions of this state. This section also requires the commission to make rules governing the procedures for administering the reduction of tax on motor fuel sold, used, or received on the Navajo Nation.
Section 59-13-202 authorizes the Commission to makes rules providing procedures for making a refund of motor fuel tax paid by a nonhighway agricultural claimant.
Section 59-13-210 authorizes the Commission to make rules to administer and enforce this Title 59, Chapter 13, Part 2, Motor Fuel.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
The Commission is not aware of any written comments received regarding this rule since the last five-year review.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
Section R865-13G-1 defines "carrier" with regard to motor fuel deliveries, and requires that every carrier delivering motor fuels within this state submit written reports concerning all deliveries from outside Utah.
Section R865-13G-3 provides criteria for determining whether a sale of motor fuel meets the export exemption from motor fuels tax. This section also requires that each export sale of motor fuel be supported by records.
Section R865-13G-5 allows motor fuel dealers that sell motor fuel in wholesale quantities to become a licensed distributor, and allows licensed distributor to purchase motor fuel tax exempt if they satisfy certain conditions.
Section R865-13G-6 upon Commission approval, exempts from motor fuel tax volatile or inflammable liquids that qualify as motor fuels, but are not useable in their present state in internal combustion engines.
Section R865-13G-8 clarifies definition of "agricultural purposes", for purposes of allowing tax refund for persons engaged in commercial agricultural work.

Section R865-13G-9 clarifies exemption from motor fuel tax for motor fuels refined in Utah from solid hydrocarbons.

Section R865-13G-10 provides procedures for distributors that make sales to government agencies to claim the fuel tax exemption for sales to government agencies. Clarifies the exemption from motor fuel tax for sale of motor fuel to Indian tribes and government agencies.

Section R865-13G-11 defines "gross gallon" and "net gallon" for use in calculating motor fuel tax liability. This section requires that all licensed distributors calculate motor fuel tax using either gross gallon or net gallon basis, and requires distributors to inform tax commission of choice then exclusively use this basis of calculation for 12 months without alternating.

Section R865-13G-13 sets procedure for government entities to apply for a refund for motor fuel taxes paid; lists the records required to be maintained for purchases on which the refund is claimed.

Section R865-13G-15 provides procedures for administering the reduction of motor fuel tax authorized under Section 59-13-201.

Section R865-13G-17 sets forth the parameters under which a motor fuels tax licensee will be considered to have changed the licensee's business address or ceased to do business.

Section R865-13G-18 defines the statewide average rack price of a gallon of motor fuel as the average of the Salt Lake City and Cedar City terminal prices of the average daily average net closing price of a gallon of branded regular, 10% ethanol, 9.0 Reid Vapor Pressure unleaded motor fuel for each terminal.

Therefore, this rule should be continued.

#### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Rebecca L. Rockwell, Commissioner	<b>Date:</b>	11/09/2021
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#### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Utah Admin. Code Ref (R no.):</b>	<b>R865-14W</b>	<b>Filing ID:</b>	<b>52071</b>
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#### Agency Information

<b>1. Department:</b>	Tax Commission
<b>Agency:</b>	Auditing
<b>Building:</b>	Tax Commission Building
<b>Street address:</b>	210 N 1950 W

<b>City, state and zip:</b>	Salt Lake City, UT 84134
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#### Contact person(s):

<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chantay Asper	801-297-3901	casper@utah.gov

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

#### General Information

##### 2. Rule catchline:

R865-14W. Mineral Producers' Withholding Tax

##### 3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 59-6-104 authorizes the Tax Commission (Commission) to make rules necessary to effectuate the purposes of the Title 59, Chapter 6, Mineral Production Withholding.

##### 4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Commission is not aware of any written comments received regarding this rule since the last five-year review.

##### 5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Section R865-14W-1 defines "working interest owner," "first purchaser," "person," and "producer" with regard to the state mineral producer's withholding tax; and clarifies withholding requirements, who is responsible to pay tax, including unpaid tax, and how claims for credits against the withholding tax should be made.

Therefore, this rule should be continued.

#### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Rebecca L. Rockwell, Commissioner	<b>Date:</b>	11/09/2021
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#### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Utah Admin. Code Ref (R no.):</b>	<b>R865-150</b>	<b>Filing ID:</b>	<b>52070</b>
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#### Agency Information

<b>1. Department:</b>	Tax Commission
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<b>Agency:</b>	Auditing	
<b>Building:</b>	Tax Commission Building	
<b>Street address:</b>	210 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84134	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chantay Asper	801-297-3901	casper@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R865-15O. Oil and Gas Tax
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 59-1-210 authorizes the State Tax Commission (Commission) to adopt rules and administer and supervise the tax laws of the state.  Section 59-5-101 authorizes the Commission to define the term "Operator" in regards to oil and gas severance tax.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
The Commission is not aware of any written comments received regarding this rule since the last five-year review.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule defines terms necessary to administer severance tax on oil and gas and provides guidelines for operators and working interest owners engaged in the business of operating an oil or gas well in the state.  Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Rebecca L. Rockwell, Commissioner	<b>Date:</b>	11/09/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R865-16R</b>	<b>Filing ID: 52072</b>

**Agency Information**

<b>1. Department:</b>	Tax Commission	
<b>Agency:</b>	Auditing	
<b>Building:</b>	Tax Commission Building	
<b>Street address:</b>	210 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84134	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chantay Asper	801-297-3901	casper@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R865-16R. Severance Tax
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 59-5-203 requires the Tax Commission (Commission) to make a rule designating an established authority for market prices of metals, and a process for determining the value of metals sold between affiliated companies where a bona fide sale has not taken place.  Section 59-5-204 authorizes the Commission to make a rule setting filing requirements that are reasonable and necessary to the proper enforcement of Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
The Commission is not aware of any written comments received regarding this rule since the last five-year review.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
Section R865-16R-1 establishes the authority and promulgates processes both required by statute and necessary in the determination of fair market value. This rule is necessary to ensure that the measurement of taxable value is consistent among the different taxpayers, thereby ensuring that all pay their fair share of tax.  Therefore, this rule should be continued.

### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Rebecca L. Rockwell, Commissioner	<b>Date:</b>	11/09/2021
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### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Utah Admin. Code Ref (R no.):</b>	<b>R865-19S</b>	<b>Filing ID:</b>	<b>53093</b>
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### Agency Information

<b>1. Department:</b>	Tax Commission	
<b>Agency:</b>	Auditing	
<b>Building:</b>	Tax Commission Building	
<b>Street address:</b>	210 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84134	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chantay Asper	801-297-3901	casper@utah.gov

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

### General Information

<b>2. Rule catchline:</b>
R865-19S. Sales and Use Tax
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 10-1-306 requires the Tax Commission (Commission) to make rules establishing the "delivered value of taxable energy" under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.
Section 10-1-308 requires the Commission to make rules to proportionally distribute all taxes collected under the Municipal Energy Sales and Use Tax if the municipality where the taxpayer is located cannot be accurately determined.
Section 10-1-405 requires the Commission to develop by rule a uniform interlocal agreement that meet the requirements of Section 10-1-405.
Subsection 59-12-102(22) requires the Commission to make rules listing the items that constitute "clothing" and that are consistent with the list of items that constitute clothing under the Streamlined Sales Tax Agreement.
Subsection 59-12-102(102) requires the Commission to make rules listing the items that constitute "protective

equipment" and that are consistent with the list of items under the Streamlined Sales Tax Agreement.

Subsection 59-12-102(127) requires the Commission to make rules listing the items that constitute "sports or recreational equipment" and that are consistent with the list of items under the Streamlined Sales Tax Agreement.

Section 59-12-102.3 authorizes the Commission to make rules reasonably required to implement the provisions of the Streamlined Sales Tax Agreement.

Subsection 59-12-104(7) authorizes the Commission to make rules governing the circumstances under which sales are at the same business location and establishing procedures and requirements for a seller to separately account for sales of assisted cleaning or washing tangible personal property.

Subsection 59-12-104(13) requires the Commission to make rules establishing the circumstances under a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically.

Subsection 59-12-104(37) requires the Commission to make rules determining the method for calculating sales exempt from sales and use tax that are not separately metered and accounted for in utility billings to a ski resort to operate a passenger ropeway.

Section 59-12-104.1 requires the Commission to make rules establishing the procedures for applying for a sales and use tax refund and establishing the standards for determining and verifying the amount of purchase at the point of sale.

Subsection 59-12-107(3) authorizes the Commission to make rules determining the amount of tax due if the London fixing price is not available for a particular day.

Subsection 59-12-107(4) authorizes the Commission to prescribe by rule the information that must be contained in a sales and used tax return and the time and place that a return must be filed and a liability paid.

Section 59-12-107.1 authorizes the Commission to make any rules necessary to administer Section 59-12-107.1 Direct Pay Permit.

Section 59-12-118 authorizes the Commission to make rules necessary for the making of returns and for the ascertainment, assessment, and collection of the taxes imposed under Title 59, Chapter 12, Sales and Use Tax Act.

Subsection 59-12-211(11) authorizes the Commission to define by rule the terms "business location," "florist," and define what constitutes a means of communication similar to a telegraph or telephone.

Subsection 59-12-211(12) authorizes the Commission to establish a method for determining the location of a transaction for the sale of computer software that is used at more than one location.

Section 59-12-1102 requires the Commission to establish rules to implement the distribution of the county option sales and use tax collections.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

The Commission is not aware of any written comments received regarding this rule since the last five-year review.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

Section R865-19S-1 distinguishes between sales and use taxes.

Section R865-19S-2 describes sales and use taxes as transaction taxes rather than taxes on articles sold; explains that purchaser pays the tax, not the vendor. The vendor merely remits the tax to the state.

Section R865-19S-4 indicates that, unless otherwise provided by statute, an invoice or receipt shall show sales tax as a separate line item or in the underlying books and records kept in the vendor's ordinary course of business. If vendors collect an excess amount of tax, they must refund the tax to customers or remit excesses to the Commission. Indicates circumstances under which an over collection of taxes may be offset against an under collection of taxes.

Section R865-19S-7 explains sales tax license requirements for businesses. Outlines rules for business address changes and business closures.

Section R865-19S-12 prescribes the basic form for vendor tax returns; outlines Commission rules for timely filing and extensions; distinguishes between annual filing status and quarterly filing status requirement; and explains alternative sales tax deposits (daily, weekly, or monthly) if necessary for the remittance of tax.

Section R865-19S-13 explains confidentiality of returns and states that persons requesting a copy of their own tax returns must present proper identification.

Section R865-19S-16 clarifies vendor procedure when vendor has collected excess taxes.

Section R865-19S-20 defines the term "total sales" for sales tax purposes; enumerates the circumstances under which the Commission will give adjustments and credits; and vendor commissions are not deductible.

Section R865-19S-22 describes the proper method of sales and use tax record keeping for retailers, lessees, and lessors; discusses proper microfilm and microfiche methods and ADP accounting system records; and explains Commission prerogatives if records are not prepared and maintained in the prescribed manner.

Section R865-19S-23 describes the exemption certificate requirement for vendors of exempt tangible personal property.

Section R865-19S-25 requires sales tax license holders to return tax licenses for cancellation upon sales of business; and requires sales tax license holders to retain business records for three years after discontinuation of business.

Section R865-19S-30 lists the evidence required for calculating sales and use tax for vehicle sales with or without a trade-in vehicle used as partial payment.

Section R865-19S-31 time and place of sale determined by contract between seller and buyer. The intent of the parties is subject to generally accepted contract law.

Section R865-19S-32 explains sales tax implications for leases, rentals, and conditional sales leases; and provides examples of taxable leases.

Section R865-19S-33 defines "admissions," "annual membership dues," and "season passes;" clarifies what is not an admission; states that amounts paid for activities that are not admissions must be separately stated on the invoice.

Section R865-19S-34 defines "place of amusement" as a definite location. Admission is subject to tax even though the charge includes the right to participate in an activity.

Section R865-19S-35 clarifies definition of "residential use" to include nursing homes. Definition of "fuels" does not include explosives. Taxable status of fuel furnished through a single meter is determined by its predominant use.

Section R865-19S-37 defines "commercials," "audio tapes," "video tapes," "motion picture exhibitor," and "distributor."

Section R865-19S-38 clarifies definition of "isolated or occasional" sales.

Section R865-19S-40 sales tax exemption for agricultural produce/agricultural products exchanges explained.

Section R865-19S-41 clarifies, for purposes of the sales tax exemption for the U. S. government, when a sale is made to the U. S. government.

Section R865-19S-42 clarifies when a sale is made to "" for exemption purposes; indicates the procedures a state or local government must follow to receive a refund of sales tax paid on lodging related purchases that are

exempt from sales tax, including the records the state or local government must retain.

Section R865-19S-43 outlines exemption qualification requirements for religious or charitable institutions.

Section R865-19S-44 explains meaning of "sales made in interstate commerce."

Section R865-19S-48 explains that returnable containers are not exempt from sales tax (although non-returnable containers are). Containers sold for final use to the consumer are not exempt. Deposits on containers are subject to sales tax; retailer may take tax credit if deposit refund is made to customer.

Section R865-19S-49 defines "farming operations" for purposes of the agricultural exemption; food, medicine, and supplies for animals in agricultural use exempt from sales tax. Fur bearing animals raised for fur are exempt agricultural products. These exemptions are only applicable to commercial farming operations. Purchaser must supply exemption certificate to vendor. Explains that poultry, eggs, and dairy products are not seasonal products under section 59-12-104 (21).

Section R865-19S-50 defines flowers, trees bouquets, plants, etc. as agricultural products; and explains tax rules for florist telegraphic deliveries. Florist receiving the order from the buyer must collect tax.

Section R865-19S-51 clarifies tax rules for manufacturing and assembling labor on tangible personal property. Sale of the personal property itself is not exempt unless specifically exempted.

Section R865-19S-53 sales by finance companies of tangible personal property acquired by repossession or foreclosure are subject to tax.

Section R865-19S-56 explains that sales by employers to employees are generally subject to sales tax.

Section R865-19S-57 retail sales of ice are taxable. Ice to be re-sold is not taxable. Contract sales of ice to railroads or freight lines are taxable; no deduction for services is allowed.

Section R865-19S-58 explains that construction materials are taxable to contractor or repairman if contractor or repairman converts them to real property; defines "construction materials"; and sales of materials to contractors are taxable; sale of completed real property is not. Contractor is the final consumer when contractor converts tangible personal property to real property. This section defines conditions under which sales of construction materials to religious or charitable institutions are exempt; and provides examples of items that remain tangible personal property even when attached to real property (and hence are taxable).

Section R865-19S-59 defines sales of tangible personal property to repair persons or renovators as "for resale" sales, and therefore exempt. Sales of supplies consumed by repair persons or renovators are taxable.

Section R865-19S-60 explains that items sold to businesses for use in carrying on business are taxable; and gives examples of office supplies, trade fixtures, etc. that are subject to tax.

Section R865-19S-61 clarifies definition of tax exempt meal sales. Meals available to general public are not exempt. This section also defines "available to general public."

Section R865-19S-62 meal tickets, coupon books, and merchandise cards, sold by persons engaged in selling those items, are taxable. This section also explains collection procedure.

Section R865-19S-63 defines tombstones and grave markers as improvements to real property; and defines tax rules for sales of these items.

Section R865-19S-65 clarifies tax rules for newspaper sales; defines "newspaper" for tax exemption purposes; and explains rules for advertising inserts.

Section R865-19S-66 distinguishes between services rendered and tangible personal property sold by optometrists, ophthalmologists, and opticians. Services are not taxable, but sales of the tangible personal property are taxable.

Section R865-19S-68 defines premiums, gifts, rebates, and coupons as taxable tangible personal property; and explains tax rules for donations of these items.

Section R865-19S-70 defines persons who render services (doctors, dentists, barbers, or beauticians) as the consumers of the tangible personal property dispensed during their services.

Section R865-19S-72 explains sales tax exemption for trade-ins and exchanges of tangible personal property.

Section R865-19S-73 explains the responsibility of trustees, receivers, executors, administrators, etc. of collecting and remitting sales tax on all taxable sales, including those made at liquidation.

Section R865-19S-74 defines vending machine operators as retailers; defines "cost" for the purposes of the 150% cost formula in Section 59-12-104(3); and requires vending machine operators to secure a sales tax license and to display license number on each vending machine.

Section R865-19S-75 defines sales by photographers, photofinishers, and photostat producers as sales of tangible personal property; and requires these persons to collect tax on their services and on sales of related tangible personal property.

Section R865-19S-76 defines charges for painting, polishing, washing, cleaning, and waxing tangible personal property as subject to tax, with no deduction allowed for the service involved; and explains that sales of items used in providing these services are subject to tax.

Section R865-19S-78 explains that labor charges for installation, repair, renovation, and cleaning of tangible personal property are taxable; labor charges for installation of tangible personal property that becomes real property are not subject to tax. (Clarifies 59-12-103(1)(g)).

Section R865-19S-79 defines "tourist home," "hotel," "motel," "trailer court," "trailer," and "accommodations and service charges."

Section R865-19S-80 defines "Pre-press materials" and "printer"; and describes sales tax liability for sales and purchases made by printers.

Section R865-19S-81 explains that the sale of artwork is taxable. Purchase of art supplies that become part of the finished product may be purchased tax free.

Section R865-19S-82 outlines sales tax rules for items used for display, trial, or demonstration. Tangible personal property used for display, trial, or demonstration is not subject to tax. Demonstration items used primarily for company or personal use are subject to tax.

Section R865-19S-85 defines "establishment," "machinery and equipment" and "manufacturer," for the purpose of the exemption for new and expanding operations and normal operating replacements; indicates when different activities performed at a single location constitute a separate and distinct establishment.

Section R865-19S-86 outlines procedures for mandatory filers, defines "mandatory filer" and related terms; describes criteria for vendor reimbursement of the cost of collecting and remitting sales taxes; and delineates procedures for Electronic Funds Transfer (EFT) remittance of sales taxes.

Section R865-19S-87 defines "tooling," "special tooling," "support equipment," and "special test equipment" for purposes of the aerospace or electronics industry contract exemption set forth in Section 59-12-104.

Section R865-19S-90 defines "interstate," "intrastate," and "two-way transmission" for purposes of Section 59-12-103; and enumerates taxable telephone services and gives examples of nontaxable charges.

Section R865-19S-91 explains that sales to government contractors are subject to sales tax if the contractor uses or consumes the property; and lists criteria for qualification as a purchasing agent for a government entity.

Section R865-19S-92 defines "computer generated output;" indicates that prewritten computer software is subject to sales tax regardless of the form in which it is

transferred; indicates that custom computer software is exempt from sales tax regardless of the form in which it is transferred; indicates how a transaction involving computer software is sourced if the transaction does not include a copy of the software to the purchaser and the purchaser uses the software at more than one location.

Section R865-19S-93 describes procedure for payment of waste tire recycling fees and clarifies what sales of tires are subject to the fee.

Section R865-19S-94 distinguishes between taxable and non-taxable tips, gratuities, and cover charges at restaurants, cafes, and clubs.

Section R865-19S-98 defines "use" for purposes of vehicle sales tax exemption for nonresidents; describes qualifications for nonresident status; describes qualifications for vehicles deemed not used in this state.

Section R865-19S-100 explains procedures for sales tax exemptions and refunds for religious and charitable organizations.

Section R865-19S-101 explains that document preparation fees assessed for motor vehicle sales are exempt from sales tax if separately identified and not included in the vehicle sale price.

Section R865-19S-102 states that ski resorts that do not have a separate meter for their exempt purchases shall determine a methodology to calculate exempt electricity purchases, and to receive Commission approval prior to using that methodology.

Section R865-19S-103 defines "gas" and "supplying taxable energy" for purposes of the municipal energy sales and use tax. The section also defines "delivered value" and "point of sale" of taxable energy; and sets forth responsibilities of an energy supplier and a user of taxable energy.

Section R865-19S-104 clarifies that the annual distribution of the county option sales tax shall be based on a calendar year; adjustments shall be reflected in the February distribution.

Section R865-19S-108 defines "user fee" for purposes of sales and use tax on admission or user fees.

Section R865-19S-109 distinguishes between the taxable and non-taxable status of purchases and sales made by a veterinarian; provides that if a sale by a veterinarian includes both taxable and nontaxable items, the nontaxable items must be separately stated or the entire invoice is subject to tax.

Section R865-19S-110 defines "advertiser", and clarifies taxable status of purchases and sales made by advertisers.

Section R865-19S-111 clarifies when a graphic design service is non-taxable; provides that a vendor who provides both nontaxable graphic design services and taxable tangible personal property must separately state nontaxable amounts or the entire sale is taxable.

Section R865-19S-113 defines "federal airway;" indicates when amounts paid for aircraft or watercraft tours are exempt from sales tax; indicates when sales tax shall be collected in Utah for a service that occurs in Utah and another state.

Section R865-19S-114 defines items that constitute clothing in accordance with the Streamlined Sales and Use Tax Agreement.

Section R865-19S-115 defines items that constitute protective equipment in accordance with the Streamlined Sales and Use Tax Agreement.

Section R865-19S-116 defines items that constitute sports or recreational equipment in accordance with the Streamlined Sales and Use Tax Agreement.

Section R865-19S-117 provides guidelines for rounding the computation of sales tax.

Section R865-19S-118 provides the terms of the uniform interlocal agreement that governs the Commission's administration of the municipal telecommunications license tax.

Section R865-19S-120 defines terms for the sales tax exemption relating to film, television, and video; indicates transactions that do not qualify for the sales tax exemption.

Section R865-19S-121 defines terms for purposes of the sales tax exemption for certain purchases by a mining facility; indicates the items the exemption applies to.

Section R865-19S-122 defines terms for purposes of the sales tax exemption for certain purchases by a web search portal establishment; indicates the items the exemption applies to.

Section R865-19S-123 indicates the London fixing price that a seller shall use to determine the amount of sales tax due in specie legal tender and in dollars when the London fixing price is not available for the day on which a purchase is made in specie legal tender.

Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Rebecca L. Rockwell, Commissioner	<b>Date:</b>	11/09/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R865-20T</b>	<b>Filing ID: 52073</b>

**Agency Information**

<b>1. Department:</b>	Tax Commission	
<b>Agency:</b>	Auditing	
<b>Building:</b>	Tax Commission Building	
<b>Street address:</b>	210 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84134	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chantay Asper	801-297-3901	casper@utah.gov

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

**General Information**

<b>2. Rule catchline:</b>
R865-20T. Tobacco Tax

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

Section 59-14-102 requires the Tax Commission (Commission) to make rules establishing the determination of "moisture content" under the definition of "moist snuff."

Section 59-14-202 requires the Commission to make rules establishing the procedures for the renewal and reinstatement of cigarette sales licenses.

Section 59-14-205 authorizes the Commission to make rules permitting cigarettes to remain unstamped until the original case is broken, unpacked, or sold, and to remain unstamped is the cigarettes are exported to a regular dealer outside of the state.

Section 59-14-208 authorizes the Commission to make rules to provide for the method of breaking packages, the form and kinds of containers, and the method of affixing or cancelling stamps.

Section 59-14-302 requires the Commission to make rules setting out the calculation of tax on moist snuff for a fractional part of an ounce.

Section 59-14-407 requires the Commission to make rules establishing the procedures and reports to be used manufacturers, distributors, wholesalers, or retailers to report the tax on cigarettes and tobacco products.

Section 59-14-503 authorizes the Commission to adopt rules permitting smokeless tobacco products to remain unstamped until the original case is unpacked, broken, or sold, or if the product is exported.

Section 59-14-607 authorizes the Commission to promulgate rules as necessary to enforce the provisions of Title 59, Chapter 14, Part 6, Tobacco Manufacturer Stamping Enforcement Provisions.

Section 59-14-707 authorizes the Commission to make rule necessary to verify information for purposes of granting or denying a certification of renewal under Title 59, Chapter 14, Part 7, Cigarette Rolling Machine Operators Act.

Section 59-14-803 authorizes the Commission to make rules establishing the procedure and application for obtaining a license to sell an electronic cigarette product or a nicotine product.

Section 59-14-302 requires the Commission to make rules setting out the calculation of tax on alternative nicotine products for a fractional part of an ounce.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

The Commission is not aware of any written comments received regarding this rule since the last five-year review.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

Section R865-20T-1 clarifies that the cigarette tax and tobacco products tax are imposed upon the first purchase, use, storage, or consumption in the state, and clarifies that no tax is due from a nonresident or tourist who purchases cigarettes outside the state for use, storage, or consumption inside the state.

Section R865-20T-3 states that each vending machine selling tobacco is to be licensed as a separate place of business. The license will be posted in a conspicuous place on the machine. This section also provides guidelines for application for license and to change the place of business.

Section R865-20T-5 sellers of tobacco products not required to post bond if previous seller has paid the tax on the products; and indicates how the amount of the bond shall be calculated.

Section R865-20T-7 clarifies that sales of cigarettes and tobacco products to vendors outside the state are not subject to this tax. This section also provides guidelines on records that must be maintained to evidence this exemption.

Section R865-20T-8 requires manufacturers, jobbers, distributors, wholesalers, retailers, users, or consumers of tobacco products or cigarettes to keep records necessary to determine the amount of tax due on the sale and consumption of these products for a period of three years.

Section R865-20T-9 allows inventories of cigarettes held by manufacturers to be delivered to wholesalers or jobbers without being stamped. Records of those deliveries must be kept with information provided in this section, and made available to the Commission.

Section R865-20T-11 allows manufacturers, distributors, wholesalers, and retailers that are required to provide, on a quarterly basis, a copy of the importer's federal import permit and customs form, to exclude those items from enclosure with their quarterly report so long as that information is kept in their records, and provided to the Commission upon request.

Section R865-20T-12 defines a "counterfeit stamp" for purposes of the definition of a "counterfeit cigarette."

Section R865-20T-13 indicates how the moisture content of a tobacco product shall be measured and how the tax on moist snuff shall be calculated.

Section R865-20T-14 indicates how the directory of cigarettes approved for stamping and sale in the state shall be updated.

Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Rebecca L. Rockwell, Commissioner	<b>Date:</b>	11/09/2021
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R865-21U</b>	<b>Filing ID: 52083</b>
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**Agency Information**

<b>1. Department:</b>	Tax Commission	
<b>Agency:</b>	Auditing	
<b>Building:</b>	Tax Commission Building	
<b>Street address:</b>	210 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84134	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chantay Asper	801-297-3901	casper@utah.gov

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

### General Information

#### 2. Rule catchline:

R865-21U. Use Tax

#### 3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 59-12-118 authorizes the Tax Commission (Commission) to prescribe rules necessary to conform with Title 59, Chapter 12, Sales and Use Tax Act, for the making of returns and for the ascertainment, assessment, and collection of sales and use taxes.

Section 59-12-1102 authorizes the Commission to make rules to implement the distribution of sales and use tax revenue to local jurisdictions.

#### 4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Commission is not aware of any written comments received regarding this rule since the last five-year review.

#### 5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Section R865-21U-1 clarifies the purpose of the use tax and when the use tax applies.

Section R865-21U-2 clarifies that all rules promulgated for sales taxes are applicable to use taxes.

Section R865-21U-6 sets forth a purchaser's responsibilities with regard to payment of and accounting for use tax.

Section R865-21U-16 clarifies that use tax is required on goods sold in interstate commerce but stored, used, or consumed within the state.

Therefore, this rule should be continued.

### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Rebecca L. Rockwell, Commissioner	<b>Date:</b>	11/09/2021
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### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Utah Admin. Code Ref (R no.):</b>	R867-2B	<b>Filing ID:</b>	52081
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### Agency Information

<b>1. Department:</b>	Tax Commission	
<b>Agency:</b>	Collections	
<b>Building:</b>	Tax Commission Building	
<b>Street address:</b>	210 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84134	

#### Contact person(s):

<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chantay Asper	801-297-3901	casper@utah.gov

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

### General Information

#### 2. Rule catchline:

R867-2B. Delinquent Tax Collections

#### 3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Section 59-1-210 authorizes the Tax Commission (Commission) to adopt rules and exercise powers necessary to perform the duties imposed by law in the administration and supervision of Utah tax laws.

Section 59-1-1403 authorizes the Commission to adopt rules prescribing methods of collecting a liability for an unpaid tax or fee.

#### 4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Commission is not aware of any written comments received regarding this rule since the last five-year review.

#### 5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Section R867-2B-1 clarifies that certain individuals may be subject to a tax lien.

Section R867-2B-3 clarifies the procedures the Commission follows prior to sale of property seized under a jeopardy assessment.

Therefore, this rule should be continued.

### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Rebecca L. Rockwell, Commissioner	<b>Date:</b>	11/09/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R873-22M	Filing ID: 52327

**Agency Information**

<b>1. Department:</b>	Tax Commission	
<b>Agency:</b>	Motor Vehicle	
<b>Building:</b>	Tax Commission Building	
<b>Street address:</b>	210 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84134	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chantay Asper	801-297-3901	casper@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R873-22M. Motor Vehicle
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 41-1a-104 authorizes the Tax Commission (Commission) to make and enforce rules necessary to effectuate Title 41, Chapter 1a, Motor Vehicle Act.
Section 41-1a-216 authorizes the Commission to make rules establishing procedures for an individual to apply for and the division to administer automatic renewal of registration and automatic payment of fees and relevant taxes.
Section 41-1a-407 requires the Commission to make rules establishing the procedure for application for a distribution of "EX" and "UHP" plates.
Section 41-1a-416 authorizes the Commission to make rules for the implementation of Section 41-1a-416 Original issue license plates – Alternative stickers – Rulemaking.
Section 41-1a-419 requires the Commission to make rules establishing the maximum number of characters on special group license plates and the qualifying criteria for persons to receive, renew, or surrender special group license plates.
Section 41-1a-420 requires the Commission to make rules establishing the maximum number of characters on disability special group license plates and the qualifying criteria for persons to receive, renew, or surrender a disability special group license plate, a temporary placard,

a temporary removable windshield placard, a removable windshield placard, a temporary wheelchair user placard, or a wheelchair user placard. The section also requires the Commission, by rule, to require disability placards to contain an identification number, expiration date, and division seal or identifying mark of authenticity.
Section 41-1a-1005 requires the Commission to make rules establishing the requirements for an insurance company to prove compliance with Subsection 41-1a-1005(1)(a)(iii) or (iv) to receive a salvage certificate.
Section 41-1a-1005.5 requires the Commission to make rules establishing the requirements for an insurance company to prove compliance with Subsection 41-1a-1005.5(1)(a)(iii) or (iv) to receive a nonrepairable certificate.
Section 41-1a-1101 requires the Commission to make rules setting standards for public garages, impound lots, and impound yards that may be used by peace officers and the division.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

The Commission is not aware of any written comments received regarding this rule since the last five-year review.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

Section R873-22M-2 clarifies documentation necessary for registration or titling of vehicles under unique circumstances.

Section R873-22M-7 specifies procedures for transfer of license plates from one vehicle to another; provides a method for determining additional registration fees if the gross laden weight of a vehicle registered by gross laden weight increases during the registration year.

Section R873-22M-8 clarifies when a registration issued for a period of three, six, or nine calendar months expires.

Section R873-22M-11 allows a driver to carry a copy of the original registration card in lieu of the original in state-owned or state- leased vehicles.

Section R873-22M-14 clarifies positioning of decals on license plates.

Section R873-22M-15 sets forth procedures for applying for a state-issued vehicle identification number (VIN) if the original VIN has been removed or altered or if one never existed. This section also states where a state-issued VIN shall be placed on the vehicle. This section also sets forth specifications for state-issued VIN.

Section R873-22M-16 establishes requirements for: 1) a lien holder who repossesses a motor vehicle to obtain title on that vehicle; 2) recording a new lien; and 3) issuing a new certificate of title showing the assignee as lienholder.

Section R873-22M-17 provides criteria that an impound lot must meet to be used by the .

Section R873-22M-20 defines "aircraft;" provides that aircraft subject to FAA registration shall be registered in Utah; provides a registration period; aircraft assessed as part of an airline by the Tax Commission are exempt from registration; requires a decal to be placed on a registered aircraft; and sets forth the contents of the database maintained by the Utah Division of Aeronautics on all aircraft based within the state.

Section R873-22M-22 allows an out-of-state branded vehicle to be issued a comparable Utah branded title; Utah registration expires when a vehicle qualifies for a title brand; and defines "cost to repair or restore a vehicle for safe operation" for purposes of unbranding a vehicle.

Section R873-22M-25 requires written notification that a vehicle has been issued a salvage certificate or branded title to a prospective buyer on a form provided by the Motor Vehicle Enforcement Division; states where the form must be displayed if the seller is a dealer.

Section R873-22M-27 sets forth requirements individuals must meet to qualify for special group license plates.

Section R873-22M-28 allows the owner of a vehicle that is forty years or older with a horseless carriage plate issued prior to July 1, 1992, the privilege of exchanging it for a vintage vehicle special group license plate issued after July 1, 1992.

Section R873-22M-29 details what a removable and a temporary removable disabled windshield placard shall look like; provides when the windshield placard may be issued and where it must be placed in the vehicle.

Section R873-22M-30 defines the term "series" with regard to the issuance of an original issue license plate; states that the numeric code on the original issue plate cannot mirror a numeric code on a license plate already in existence.

Section R873-22M-32 defines certificate of title with regard to Section 41-1a-1010; and requires an applicant with a vehicle eligible for retitling under Section 41-1a-1010 to receive a title consistent with the title at the time of application for a permit to dismantle.

Section R873-22M-33 provides a definition of "private institution of higher education" and "standard collegiate degree" for purposes of collegiate license plates.

Section R873-22M-34 states conditions under which a personalized license plate may not be issued; and allows

an applicant the right to request a review of the denial; provides procedures for review.

Section R873-22M-35 if the user of a personalized plate fails to renew the plate within one year of the expiration, the plate will be considered surrendered to the division and the plate may be reissued to a new requestor.

Section R873-22M-36 defines "advisory notice" and provides the procedures necessary to access protected motor vehicle records by telephone or in person.

Section R873-22M-40 provides a method to determine the age of a vehicle for purposes of determining the frequency of the state safety inspection required under Section 53-8-205.

Section R873-22M-41 indicates when the Commission shall issue a salvage certificate for a vehicle to an insurance company.

Section R873-22M-42 indicates when the Commission shall issue a nonrepairable certificate for a vehicle to an insurance company.

Therefore, this rule should be continued.

#### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Rebecca L. Rockwell, Commissioner	<b>Date:</b>	11/09/2021
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#### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

<b>Utah Admin. Code Ref (R no.):</b>	<b>R877-23V</b>	<b>Filing ID: 52761</b>
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#### Agency Information

<b>1. Department:</b>	Tax Commission	
<b>Agency:</b>	Motor Vehicle Enforcement	
<b>Building:</b>	Tax Commission Building	
<b>Street address:</b>	210 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84134	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chantay Asper	801-297-3901	casper@utah.gov

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

**General Information**

<b>2. Rule catchline:</b>
R877-23V. Motor Vehicle Enforcement
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 41-3-105 authorizes the Tax Commission (Commission) to make rules to carry out the purposes Title 41, Chapter 3, Motor Vehicle Business Regulation Act; and Title 41, Chapter 1a, Part 10, Salvage Vehicles – Junk and Dismantled Vehicles; including the authority to determine the allowable size and shape of signs or devices, and the location of signs or devices.
Section 41-3-202 requires the Commission to makes rules establishing the qualifications of an applicant for a salvage vehicle buyer license and authorizes the Commission to create an application procedures for a provisional license.
Section 41-3-301 authorizes the Commission to make rules allowing electronic notices of motor vehicle sales to be filed with the Commission.
Section 41-3-302 requires the Commission to make rules establishing the procedure for the issuance of temporary permits by motor vehicle dealers.
Section 76-8-311.1 authorizes the Commission to make rules establishing a secure area within the Commission facility and prohibit firearms, ammunition, dangerous weapons, or explosives.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
The Commission is not aware of any written comments received regarding this rule since the last five-year review.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
Section R877-23V-3 prohibits holders of a dealer license from working as a salesperson for another dealer. This section does allow dealership owners to engage as no-fee salespersons for their own dealerships.
Section R877-23V-5 establishes guidelines for issuance, placement, and records of temporary motor vehicle registration permits and extension permits issued by dealers.
Section R877-23V-6 clarifies issuance of in-transit permits for piggybacked semi tractors.
Section R877-23V-7 sets forth standards of practice for advertising and sale of motor vehicles.

Section R877-23V-8 requires all dealers, dismantlers, manufacturers, remanufactures, transporters, crushers, and body shops to post a legible sign at principal and additional places of business; requires these entities to identify their vehicles through signage on the vehicles.
Section R877-23V-10 requires all automobile manufacturers licensed in Utah, to comply with federal vehicle identification number (VIN) requirements.
Section R877-23V-11 requires all persons licensed under Section 41-3-202 to notify the motor vehicle enforcement division immediately of any change in ownership, address, or circumstance relating to its fitness to be licensed.
Section R877-23V-12 establishes criteria that must be met before the issuance of a motor vehicle related license.
Section R877-23V-14 requires a dealer issuing temporary permits to segregate and identify state mandated fees. This section also requires dealer to post a visible and prominent sign if the dealer charges a customer a dealer documentary service fee.
Section R877-23V-16 provides that a lost or stolen special plate may be replaced only after it has expired; requires a replaced special plate to be included in the calculation of special plates under Section 41-3-503.
Section R877-23V-18 outlines qualifications for a salvage vehicle buyer license and evidence needed to support those qualifications.
Section R877-23V-20 provides circumstances under which there is a rebuttable presumption that reasonable cause to deny, suspend, or revoke a license exists.
Section R877-23V-22 indicates when reasonable cause to waive, reduce, or compromise a civil penalty does and does not exist.
Section R877-23V-23 designates a secure area within the tax commission facility.
Section R877-23V-24 sets out the procedures for an electronic meeting of the Motor Vehicle Advisory Board.
Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Rebecca L. Rockwell, Commissioner	<b>Date:</b>	11/09/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R884-24P</b>	<b>Filing ID: 52382</b>

## Agency Information

<b>1. Department:</b>	Tax Commission	
<b>Agency:</b>	Property Tax	
<b>Building:</b>	Tax Commission Building	
<b>Street address:</b>	210 N 1950 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84134	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chantay Asper	801-297-3901	casper@utah.gov
Please address questions regarding information on this notice to the agency.		

## General Information

<b>2. Rule catchline:</b>
R884-24P. Property Tax
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
<p>Section 59-1-210 authorizes the Tax Commission (Commission) to adopt rules and exercise powers necessary to perform the duties imposed by law in the administration and supervision of Utah tax laws. This section also authorizes the Commission to adopt rules consistent with the constitution and the laws of the state, to govern county boards and officers in the performance of any duty relating to the assessment, equalization, and collection of taxes.</p> <p>Section 59-1-404 authorizes the Commission to define "commercial information" for purposes of prescribing the circumstances under which information is intended for public use and may be disclosed.</p> <p>Section 59-2-103 authorizes the Commission to make rules defining the term "domicile."</p> <p>Section 59-2-103.5 requires the Commission to prescribe by rule the contents of the form used by counties as an application for the primary residential exemption from property tax.</p> <p>Section 59-2-107 requires the Commission to make rules defining the classes of items considered to be personal property for purposes of Title 59, Chapter 2, Property Tax Act.</p> <p>Sections 59-2-108 and 59-2-1115 authorize the Commission to make rules defining the term "item of taxable tangible personal property."</p> <p>Section 59-2-515 authorizes the Commission to make any rules necessary to effectuate the purposes of Title 59, Chapter 2, Part 5, Farmland Assessment Act.</p>

Section 59-2-701 authorizes the Commission to make rules to establish the qualifications for personal property appraisers exempt from licensure.

Section 59-2-704 authorizes the Commission to adopt rules to establish the method, procedure, and timetable for counties to annually evaluate the county's appraisal performance of taxable real property.

Section 59-2-704.5 requires the Commission to make rules determining acceptable standards, assessment levels, and valuation deviations within each county.

Sections 59-2-919 and 59-2-919.2 authorize and require the Commission to make rules governing advertisements for tax increases by local governmental entities.

Section 59-2-1004 requires the Commission to adopt rules providing for the circumstances under which the county board of equalization is required to accept a late filed appeal.

Section 59-2-1102 requires the Commission to make rules providing the form and contents of the annual statement establishing that property continues to be eligible for certain exemptions from property tax.

Section 59-2-1110 authorizes the Commission to adopt all rules necessary to determine the exemption of property used to furnish power for irrigation purposes and to prorate the tax benefits provided.

Section 59-2-1114 authorizes the Commission to adopt rule necessary to implement the exemption of inventory held for sale.

Section 59-2-1115 authorizes the Commission to make rules to administer the exemption of certain tangible personal property from taxation and provide for uniform implementation.

Section 59-2-1308.5 requires the Commission to make rules to ensure that revenue derived from equal payment agreements do not affect the calculation of the certified tax rate.

Section 59-2-1351.1 requires the Commission to establish by rule the minimum procedural standards applicable to tax sales.

Section 59-2-1361 authorizes the Commission to make rules necessary to implement Section 59-2-1361.

Section 59-2-1712 authorizes the Commission to make rules necessary to administer Title 59, Chapter 2, Part 17, Urban Farming Assessment.

Section 59-2-1804 authorizes the Commission to make rule necessary to implement Section 59-2-1804 Application for tax deferral or tax abatement.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

In October of 2018, the Commission received written comments from the Salt Lake and Davis County Assessors related to Section R884-24P-33. These comments requested that the 50% adjustment for certain pollution control equipment be repealed. Upon consideration of these comments the Commission was reluctant to make this change without input from the Legislature, industry, and other interested parties. The Commission felt that a legislative interim committee would provide an enhanced forum for competing interest to be heard and examined by state policy makers.

In a letter dated November 28, 2018, the Commission outlined this issue to the Revenue and Taxation Interim Committee and the Administrative Rules Review Committee (ARRC) and requested the Legislature consider this change. Commissioner Rockwell subsequently testified before the ARRC of the Legislature on January 9, 2019. While the ARRC initially favored the repeal of the 50% adjustment and proposed amending the annual rule reauthorization bill to exclude this provision, the change ultimately did not pass during the 2019 General Session and the rule was reauthorized in its current form.

In light of this, the Commission determined that it would be inappropriate to make any change to the 50% reduction without further legislative input. The Counties subsequently filed a petition for a rule change on February 20, 2020, which the Commission denied on April 21, 2020, for the forgoing reason. It is the Commission's understanding that the Legislature may reconsider this issue during the 2022 General Session. Additionally, the Commission is currently in discussions with interested parties related to changes to Section R884-24P-62. However, no changes to this section have been adopted at this time.

The Commission is not aware of any other written comments received regarding this rule since the last five-year review.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

Section R884-24P-5 defines "household income" with regard to property tax abatements or deferrals for indigent persons; states that absence from residence due to vacation, confinement to hospital or other temporary situations shall not be deducted from the ten-month residency requirement of Section 59-2-1109.

Section R884-24P-7 defines terms; provides a methodology for assessment of mining properties.

Section R884-24P-10 defines terms and provides methodology necessary for taxation of underground rights

in land that contains deposits of oil or gas; also provides for withholding of these taxes.

Section R884-24P-14 requires assessor to consider preservation easements when valuing historically significant real property and structures; also requires property owner to inform assessor of the preservation easement.

Section R884-24P-16 defines terms and provides a methodology for valuing Interlocal Cooperation Act project entity properties; and refers to Section 11-13-25 which is renumbered.

Section R884-24P-19 sets forth the ad valorem training and designation program.

Section R884-24P-20 defines terms concerning the appraisal of property under construction and provides methodology for valuing that property.

Section R884-24P-24 sets forth form county auditor must use to notify real property owners of property valuation and tax changes; and provides guidelines to be used in determining new growth, the certified tax rate, and increase in property tax revenues.

Section R884-24P-27 defines terms related to the standards of assessment performance; sets forth standards of assessment performance regarding assessment level and uniformity; states when corrective action is necessary; and provides an alternate performance evaluation.

Section R884-24P-28 sets forth a procedure for reporting heavy equipment leased or rented during the tax year.

Section R884-24P-29 states situations when household furnishings, furniture and equipment are subject to property tax.

Section R884-24P-32 clarifies that leasehold improvements shall be included in the value of the underlying real property and assessed to the owner of the underlying real property unless the underlying real property is owned by an exempt entity.

Section R884-24P-33 defines terms; provides percent good schedules for all personal property to be used to arrive at the property's taxable value.

Section R884-24P-35 requires the owner of property receiving a property tax exemption based on exclusive use for religious, charitable, or educational purposes to file an annual affidavit.

Section R884-24P-36 sets forth items that must appear on the real property tax notice, in addition to items required in Section 59-2-1317.

Section R884-24P-37 requires the county assessor to maintain an appraisal record of all real property subject to

assessment by the county; indicates what information shall be included in the record; and requires the value of the land and improvements be shown separately.

Section R884-24P-38 provides definitions and a methodology for assessing nonoperating railroad properties.

Section R884-24P-40 clarifies when parsonages, rectories, monasteries, homes and residences are used exclusively for religious purposes; and states that vacant land not actively used by the religious organization is not exempt from property tax.

Section R884-24P-42 provides procedures an assessor must follow upon Commission completion of audits of personal property and land subject to the Farmland Assessment Act.

Section R884-24P-44 indicates who is the owner for purposes of the property tax exemption for the owner of equipment and machinery used for agricultural purposes; clarifies when machinery and equipment are not used for farming purposes.

Section R884-24P-49 defines terms and provides a methodology for valuating a private rail car company apportioned to Utah.

Section R884-24P-50 defines terms and provides a methodology for apportioning the Utah portion of commercial aircraft.

Section R884-24P-52 defines terms and establishes criteria necessary for the determination of whether a residence is a primary residence in Utah.

Section R884-24P-53 provides valuation tables for the valuation of land subject to the Farmland Assessment Act.

Section R884-24P-55 requires each county to establish a written ordinance for real property sale procedures and indicates what issues the ordinance must address. This section requires that the ordinance be displayed in a public place and be available to all interested parties.

Section R884-24P-56 provides a formula to calculate the previous year's statewide rate; apportions vehicles assessed under Section 41-1a-301 at the same percentage filed with the Customer Service Division of the Tax Commission; and defines "principal route."

Section R884-24P-57 defines terms related to a judgment levy; provides guidelines on a judgment levy public hearing and advertisement; and requires taxing entities to file with the Tax Commission a statement certifying that they meet the qualifications for imposing a judgment levy.

Section R884-24P-58 indicates how the one-time decrease in the certified rate based on the county option sales tax shall be determined.

Section R884-24P-59 indicates how the one-time decrease in the certified rate based on resort community sales tax shall be determined.

Section R884-24P-60 excludes motorcycles from the definition of "motor vehicle;" provides additional guidelines on the calculation of the age-based uniform fee on tangible personal property.

Section R884-24P-61 defines "recreational vehicle" and excludes motorcycles from the definition of "motor vehicle;" clarifies what types of personal property the uniform fee applies to; and provides a formula to determine the fair market value of tangible personal property.

Section R884-24P-62 defines terms related to state-assessed utility and transportation properties; and provides a methodology for valuation of state-assessed utility and transportation properties.

Section R884-24P-63 requires a written customer service performance plan to be developed by the party contracting to collect both state registration fees and county property taxes on vehicles; and requires county offices and the Commission to provide training.

Section R884-24P-64 provides a formula for determining the taxable value of vehicles owned by disabled veterans and the blind for purposes of the property tax exemptions for the disabled veterans and the blind.

Section R884-24P-65 defines "transitory personal property" and clarifies when this type of property is subject to a proportional assessment of property tax.

Section R884-24P-66 defines "factual error;" indicates when a board of equalization must accept a property tax appeal that is filed beyond the period allowed under the statute of limitations; and sets forth criteria for county board of equalization hearing procedures.

Section R884-24P-67 provides an annual reporting mechanism to assist county assessors in gathering data necessary for accurate valuation of low-income housing projects.

Section R884-24P-68 provides guidance in determining whether a taxpayer qualifies for the property tax exemption for tangible personal property with a total aggregate fair market value of \$3,500 or less.

Section R884-24P-70 provides that county mass appraisal systems shall use accepted valuation methodologies to perform the annual update of all residential parcels and defines "accepted valuation methodologies;" and indicates what a detailed review of property characteristics includes.

Section R884-24P-71 indicates how the Commission will ensure that an equal property tax payment agreement does not impact the certified tax rate; indicates the period for which an agreement is effective.

Section R884-24P-72 allows a member of the State Farmland Evaluation Advisory Committee to participate electronically in a meeting of that committee.

Section R884-24P-74 outlines changes to the jurisdiction of mining claims.

Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Rebecca L. Rockwell, Commissioner	<b>Date:</b>	11/09/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R909-4</b>	<b>Filing ID: 52110</b>

**Agency Information**

<b>1. Department:</b>	Transportation	
<b>Agency:</b>	Motor Carriers	
<b>Room no.:</b>	Administrative Suite, 1st Floor	
<b>Building:</b>	Calvin Rampton	
<b>Street address:</b>	4501 S 2700 W	
<b>City, state and zip:</b>	Taylorsville, UT 84129	
<b>Mailing address:</b>	PO Box 148455	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-8455	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Linda Hull	801-965-4253	lhull@utah.gov
Becky Lewis	801-965-4026	blewis@utah.gov
James Palmer	801-965-4197	jimpalmer@agutah.gov

Lori Edwards	801-965-4048	loriedwards@agutah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R909-4. Motor Carrier, Enforcement, Penalties
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Section 72-9-301 grants the Department of Transportation (Department) authority to enforce motor carrier safety and size and weight law. Section 72-9-103 grants the Department authority to make rules for enforcement of Title 72, Chapter 9; and Title 72, Chapter 9, Part 7, grants the Department authority to impose penalties. Section 72-9-303 grants the Department authority to issue cease and desist orders.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
The Department has not received any written comments during and since the last five-year review of this rule from interested persons supporting or opposing this rule
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule authorizes the Department to enforce state and federal motor carrier safety laws and impose civil penalties to improve roadway safety and protect the public infrastructure by encouraging compliance with motor carrier regulations. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Carlos M. Bracerias, PE, Executive Director	<b>Date:</b>	11/10/2021
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**End of the Five-Year Notices of Review and Statements of Continuation Section**



## NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a **NOTICE OF FIVE-YEAR REVIEW EXTENSION (EXTENSION)** with the Office of Administrative Rules. The **EXTENSION** permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed **EXTENSIONS** for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date.

**EXTENSIONS** are governed by Subsection 63G-3-305(6).

NOTICE OF FIVE-YEAR REVIEW EXTENSION		
Utah Admin. Code Ref (R no.):	R384-205	Filing ID: 50911

### Agency Information

<b>1. Department:</b>	Health	
<b>Agency:</b>	Disease Control and Prevention, Health Promotion	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3102	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Teresa Brechlin	385-214-5933	tbrechlin@utah.gov

Anna Fondario	385-258-8537	afondario@utah.gov
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Please address questions regarding information on this notice to the agency.

### General Information

<b>2. Rule catchline:</b>
R384-205. Opiate Overdose Outreach Pilot Program
<b>3. Reason for requesting the extension and the new deadline date:</b>
The agency intends to repeal this rule. The program was funded for one year. It no longer receives funds and is no longer active. An extension is being filed to keep this rule in place while the process is followed to repeal this rule. The new deadline is 03/07/2022.

### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Nathan Checketts, Interim Executive Director	<b>Date:</b>	11/04/2021
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**End of Notices of the Five-Year Review Extensions Section**



## NOTICES OF FIVE-YEAR EXPIRATIONS

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Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). The Office of Administrative Rules (Office) is required to notify agencies of rules due for review at least 180 days prior to the anniversary date. If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a **NOTICE OF FIVE-YEAR EXTENSION (EXTENSION)** with the Office. However, if the agency fails to file either the **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION** or the **EXTENSION** by the date provide by the Office, the rule expires.

Upon expiration of the rule, the Office files a **NOTICE OF FIVE-YEAR EXPIRATION (EXPIRATION)** to document the action. The Office is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule and it must follow regular rulemaking procedures to replace the rule if it is still needed.

The Office has filed **EXPIRATIONS** for each of the rules listed below which were not reviewed in accordance with Section 63G-3-305. These rules have expired and have been removed from the *Utah Administrative Code*.

The expiration of administrative rules for failure to comply with the five-year review requirement is governed by Subsection 63G-3-305(8).

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NOTICE OF EXPIRED RULE		
Utah Admin. Code Ref (R no.):	R277-513	ID No. 50477

### Agency Information

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Street address:</b>	250 E 500 S	
<b>City, state, and zip:</b>	Salt Lake City, UT 84111	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Nancy L. Lancaster	801-957-7102	rulesonline@utah.gov

### General Information

<b>2. Title of rule (catchline):</b>	
R277-513. Teacher Leader	
<b>3. Effective Date:</b>	11/08/2021
<b>4. Summary:</b>	
The five-year review and notice of continuation was not filed for this rule by the deadline. This rule has expired and will be removed from the Utah Administrative Code.	

**End of Notices of the Five-Year Review Expirations Section**



## NOTICES OF RULE EFFECTIVE DATES

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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.

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### Agriculture and Food

#### Plant Industry

No. 53641 (Amendment) R68-25: Industrial Hemp Research Pilot Program for Processors  
Published: 07/15/2021  
Effective: 10/29/2021

No. 53641 (Change in Proposed Rule) R68-25: Industrial Hemp Research Pilot Program for Processors  
Published: 09/01/2021  
Effective: 10/29/2021

### Commerce

#### Occupational and Professional Licensing

No. 53992 (New Rule) R156-4a: Utah Professionals Health Program Rule  
Published: 10/15/2021  
Effective: 11/23/2021

No. 53945 (Amendment) R156-70a: Physician Assistant Practice Act Rule  
Published: 10/01/2021  
Effective: 11/09/2021

No. 53994 (Amendment) R156-71: Naturopathic Physician Practice Act Rule  
Published: 10/15/2021  
Effective: 11/23/2021

### Education

#### Administration

No. 53970 (Amendment) R277-113: LEA Fiscal and Auditing Policies  
Published: 10/01/2021  
Effective: 11/08/2021

No. 53971 (Amendment) R277-116: Audit Procedure  
Published: 10/01/2021  
Effective: 11/08/2021

No. 53972 (New Rule) R277-123: Process for Members of the Public to Report Violations of Statute and Board Rule  
Published: 10/01/2021  
Effective: 11/08/2021

No. 53973 (New Rule) R277-312: Online Educator Licensure  
Published: 10/01/2021  
Effective: 11/08/2021

No. 53974 (New Rule) R277-315: Educator Professional Learning Procedures and USBE Credit  
Published: 10/01/2021  
Effective: 11/08/2021

No. 53975 (New Rule) R277-321: Paraeducator to Teacher Scholarship Program  
Published: 10/01/2021  
Effective: 11/08/2021

No. 53976 (Amendment) R277-324: Paraprofessional/Paraeducator Programs, Assignments, and Qualifications  
Published: 10/01/2021  
Effective: 11/08/2021

No. 53977 (Repeal) R277-512: Online Licensure  
Published: 10/01/2021  
Effective: 11/08/2021

No. 53978 (Repeal) R277-519: Educator Professional Learning Procedures and USBE Credit  
Published: 10/01/2021  
Effective: 11/08/2021

NOTICES OF RULE EFFECTIVE DATES

No. 53979 (Repeal) R277-526: Paraeducator to Teacher Scholarship Program  
Published: 10/01/2021  
Effective: 11/08/2021

No. 53980 (New Rule) R277-556: Charter School Closure Reserve Account  
Published: 10/01/2021  
Effective: 11/08/2021

No. 53981 (Amendment) R277-712: Competency-based Grant Programs  
Published: 10/01/2021  
Effective: 11/08/2021

No. 53982 (Amendment) R277-720: Reimbursement Program for Early Graduation from Competency-Based Education  
Published: 10/01/2021  
Effective: 11/08/2021

No. 53983 (Repeal) R277-753: LEA Reporting Requirements for Section 504 Students  
Published: 10/01/2021  
Effective: 11/08/2021

No. 53984 (Amendment) R277-914: Career and Technical Student Organizations  
Published: 10/01/2021  
Effective: 11/08/2021

Government Operations

Fleet Operations

No. 53956 (Amendment) R27-1: Definitions  
Published: 10/15/2021  
Effective: 11/25/2021

No. 53957 (Amendment) R27-2: Fleet Operations Adjudicative Proceedings  
Published: 10/15/2021  
Effective: 11/25/2021

No. 53958 (Amendment) R27-3: Vehicle Use Standards  
Published: 10/15/2021  
Effective: 11/25/2021

Governor

Economic Opportunity

No. 53996 (Amendment) R357-13: Hotel Convention Center Incentive  
Published: 10/15/2021  
Effective: 11/22/2021

No. 53997 (Amendment) R357-15: Enterprise Zone Tax Credit  
Published: 10/15/2021  
Effective: 11/22/2021

No. 53991 (Repeal) R357-17: Air Quality Incentive  
Published: 10/15/2021  
Effective: 11/22/2021

Health

Disease Control and Prevention, Environmental Services

No. 53643 (New Rule) R392-106: Microenterprise Home Kitchen Sanitation  
Published: 07/15/2021  
Effective: 11/16/2021

No. 53643 (Change in Proposed Rule) R392-106: Microenterprise Home Kitchen Sanitation  
Published: 10/01/2021  
Effective: 11/16/2021

Health Care Financing, Coverage and Reimbursement Policy

No. 53952 (Amendment) R414-1: Services Available  
Published: 10/01/2021  
Effective: 11/15/2021

No. 53953 (Amendment) R414-10: Physician Services  
Published: 10/01/2021  
Effective: 11/15/2021

No. 53836 (Repeal and Reenact) R414-29: Client Review/Education and Restriction Policy  
Published: 09/15/2021  
Effective: 11/01/2021

No. 53954 (Amendment) R414-200: Services Available  
Published: 10/01/2021  
Effective: 11/15/2021

Human Services

Child and Family Services

No. 53908 (Amendment) R512-11: Accommodation of Moral and Religious Beliefs and Culture  
Published: 10/01/2021  
Effective: 11/08/2021

No. 53906 (Amendment) R512-32: Children with Reportable Communicable Diseases  
Published: 10/01/2021  
Effective: 11/08/2021

No. 53907 (Repeal) R512-42: Adoption by Relatives  
Published: 10/01/2021  
Effective: 11/08/2021

Substance Abuse and Mental Health, State Hospital

No. 53932 (Repeal) R525-2: Patient Rights  
Published: 10/01/2021  
Effective: 11/09/2021

No. 53933 (Repeal) R525-3: Medication Treatment of Patients  
Published: 10/01/2021  
Effective: 11/09/2021

No. 53934 (Repeal) R525-4: Visitors  
Published: 10/01/2021  
Effective: 11/09/2021

No. 53883 (Repeal) R525-5: Background Checks  
Published: 09/15/2021  
Effective: 11/09/2021

No. 53935 (Amendment) R525-6: Prohibited Items and Devices  
Published: 10/01/2021  
Effective: 11/09/2021

No. 53884 (Repeal) R525-7: Complaints/Suggestions/Concerns  
Published: 09/15/2021  
Effective: 11/09/2021

#### Recovery Services

No. 53904 (Amendment) R527-34: Non-IV-A Services  
Published: 10/01/2021  
Effective: 11/09/2021

No. 53905 (Amendment) R527-303: Automatic Payment Withdrawal  
Published: 10/01/2021  
Effective: 11/09/2021

#### Insurance

##### Administration

No. 53927 (Amendment) R590-85: Accident and Health Insurance and Medicare Supplement Rates  
Published: 10/01/2021  
Effective: 11/08/2021

No. 53928 (Amendment) R590-98: Unfair Practice in Payment of Life Insurance and Annuity Policy Values  
Published: 10/01/2021  
Effective: 11/08/2021

No. 53911 (Amendment) R590-108: Interest Rate During Grace Period or Upon Reinstatement of Policy  
Published: 10/01/2021  
Effective: 11/08/2021

No. 53929 (Amendment) R590-114: Letters of Credit  
Published: 10/01/2021  
Effective: 11/08/2021

No. 53910 (Amendment) R590-117: Valuation of Liabilities  
Published: 10/01/2021  
Effective: 11/08/2021

No. 53909 (Amendment) R590-121: Rate Modification Plan Rule  
Published: 10/01/2021  
Effective: 11/08/2021

No. 53986 (Amendment) R590-122: Permissible Arbitration Provisions  
Published: 10/15/2021  
Effective: 11/22/2021

No. 53988 (Repeal and Reenact) R590-128: Unfair Discrimination Based on the Failure to Maintain Automobile Insurance. (Revised.)  
Published: 10/15/2021  
Effective: 11/22/2021

No. 53987 (Amendment) R590-144: Commercial Aviation Insurance Exemption From Rate and Form Filing  
Published: 10/15/2021  
Effective: 11/22/2021

#### Public Safety

##### Driver License

No. 53990 (Amendment) R708-45: Renewal or Duplicate License for Utah Residents Temporarily Residing Out of State  
Published: 10/15/2021  
Effective: 11/22/2021

#### Tax Commission

##### Auditing

No. 53925 (Amendment) R865-7H-1: Environmental Assurance Fee for Retailers or Consumers Not Participating in the Environmental Assurance Program Pursuant to Utah Code Ann. Section 19-6-410.5  
Published: 10/01/2021  
Effective: 11/15/2021

No. 53924 (Amendment) R865-20T-15: Calculation of Tax on Alternative Nicotine Products Pursuant to Utah Code Ann. Section 59-14-804  
Published: 10/01/2021  
Effective: 11/15/2021

#### Motor Vehicle

No. 53923 (Amendment) R873-22M-2: Documentation Required and Procedures to Follow to Register or Title Certain Vehicles Pursuant to Utah Code Ann. Sections 41-1a-104 and 41-1a-108  
Published: 10/01/2021  
Effective: 11/15/2021

#### Property Tax

No. 53920 (Amendment) R884-24P-33: 2021 Personal Property Valuation Guides and Schedules  
Published: 10/01/2021  
Effective: 11/15/2021

### **End of Rule Effective Dates**

