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**STATE OF UTAH  
LEGISLATIVE SUMMARY  
2017 General Session**

**A cooperative project of:**

**Utah Prosecution Council  
Statewide Association of Prosecutors and  
Public Attorneys  
Layton City Attorney's Office  
Salt Lake County District Attorney's Office  
Utah Attorney General's Office**

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**UPC wishes to recognize and thank all those who  
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This publication constitutes summaries of legislation passed during the 2017 General Session of the Utah Legislature relating to criminal law and criminal procedure and to county and city government.

The publication contains summaries only, not the full text of bills. There is no substitute for reading the actual legislative language. Enrolled copies of bills passed during the 2017 General Legislative Session can be obtained by going to the Utah Legislature's web site: <http://le.utah.gov>. Please note that each bill number in this document is hyperlinked so the enrolled copy may be accessed by clicking on the bill number.

Beginning **April 24**, 2017, this publication will be downloadable from the Utah Prosecution Council web site: [www.upc.utah.gov](http://www.upc.utah.gov).

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A digest of all legislation, including effective dates, an index by subject matter, an index by bill number, a listing of bills which did not pass, and other useful material is also on the above cited legislative web page, and is published by:

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# HOUSE BILLS

## DISPOSITION OF BALLOTS AMENDMENTS

[HB 12](#)

Rep. Steve Eliason

This bill primarily amends provisions relating to absentee ballot envelopes and modifies the duties of the election officer in notifying the voter of his or her rejected absentee ballot. This bill provides that when an initial absentee ballot is rejected, the election officer must provide notice of this rejection to the voter, and the reason for the rejection of the absentee ballot. The bill further provides that the election officer must provide such notice within the following time limits: (1) for ballots rejected before election day, one business day after rejection if notice is given via email or text message; (2) for ballots rejected before election day, two business days after rejection if notice is given by postal mail or phone; (3) for ballots rejected on election day, seven days after election day; and (4) for ballots rejected after election day and before the end of canvass, seven days after the canvass. The bill requires this notice to be given to voters for absentee ballots rejected by the election officer prior to, on, and after election day, as well as absentee ballots rejected by poll workers prior to, on, or after election day. Finally, the bill adds an additional requirement to the absentee ballot envelope, requiring the return envelope to include a space for a voter to write contact information in the event of a rejected ballot.

AMENDS: 20A-3-302, 20A-3-305, and 20A-3-308

## VOTING REVISIONS

[HB 16](#)

Rep. Brad M. Daw

This bill establishes a new Voting Equipment Grant Program. Beginning July 1, 2017, \$275,000 will be made available to counties to help fund new voting equipment systems. The amount available to each individual county depends, in part, on the number of active voters in the county (as a percentage of the total number of registered voters in the state). Participating counties will also be required to provide matching funds.

The bill sets forth the process under which a county may apply for funds and revises the criteria under which the Lieutenant Governor shall certify voting equipment. It also creates a Voting Equipment Selection Committee, which may establish additional standards and requirements for equipment that is purchased through the grant program.

Finally, the Legislature made a point to note “voting equipment used in this state may include technology that allows for ranked-choice voting.” UTAH CODE ANN. § 20A-5-802(2)(d) (2017). This reflects a growing interest among Legislators to use ranked-choice voting as a means to avoid plurality elections in the future.



AMENDS: 63I-2-220  
ENACTS: 20A-5-801 and 20A-5-804  
RENUMBERS AND AMENDS: 20A-5-802 and 20A-5-803

## **OFFENSES AGAINST THE PERSON AMENDMENTS**

[HB 17](#)

Rep. Lowry Snow

After several years and substantial effort by many, we now have language specific to strangulation in the Utah criminal code. This bill adds acts of strangulation to the Aggravated Assault Statute. The old language, which remains in the statute as an option still available to prosecutors, provides that Aggravated Assault is established when it is proven that there is an act that uses “means or force likely to produce death or serious bodily injury.” This bill adds an additional way to prove strangulation as an Aggravated Assault: “any act that impedes the breathing or circulation of blood of another person by the actor’s use of unlawful force or violence that is likely to produce a loss of consciousness by: (A) applying pressure to the neck or throat of a person; or (B) obstructing the nose, mouth or airway of a person.” Proving that the act was “likely to produce unconsciousness” can be accomplished by a state’s witness testifying that either 1) unconsciousness was caused; or 2) pressure was applied similar to that used in an ordinary handshake for about 10 seconds.

The act of strangulation is and has been a Third Degree Felony, but this bill also increases the penalty to a Second Degree Felony where unconsciousness is actually caused.

The bill also adds similar language to the definition portion of the child abuse statute, 76-5-109. Now added as “serious physical injury” to a child is the following: 76-5-109 ((1) (f) (ii) (I): “any impediment of the breathing or circulation of blood by the application of pressure to the neck, throat or chest, or by obstruction of the nose or mouth, that is likely to produce a loss of consciousness”; and (K) “unconsciousness caused by the unlawful infliction of a brain injury or unlawfully causing any deprivation of oxygen to the brain.”

AMENDS: 76-5-103 Aggravated Assault  
76-5-109 Child Abuse

## **TAX INCENTIVE REVIEW AMENDMENTS**

[HB 25](#)

Rep. Dan McCay

This bill creates the Economic Development Legislative Liaison Committee (the “Committee”), which consists of eight compensated members (four members from the House of Representatives and four members from the Senate). The duties of the committee are to receive reports from GOED regarding how GOED is, among other things: (a) promoting and encouraging economic development in the state; (b) creating, developing, attracting, and retaining, business, industry, and commerce in the state; (c) an economic development incentive or program GOED administers; and (d) a contract or agreement that GOED has entered into with

a public or private entity. The purpose of the Committee is unclear. Beyond receiving reports from GOED, the bill does not specify any other duties for the Committee. In fact, the Committee is prohibited from disclosing or sharing most of the information it obtains from GOED (due to the confidential nature of such information and records) and the bill specifies that “[t]he committee may not: (a) request legislation; (b) recommend legislation; (c) take a position on a matter of public policy; (d) . . . direct the negotiations, activities, and work of [GOED]; or require [GOED] to request company-specific tax information from the State Tax Commission.” Additionally, the bill amends Section 52-4-103 of the Open and Public Meetings Act to specify that the Committee is not a “public body” for the purposes of the Open and Public Meetings Act.

On a somewhat related note, the bill also addresses what tax information the State Tax Commission can provide to GOED and certain other state offices (so long as personally identifiable information is redacted). Furthermore, the bill calls for the State Tax Commission and the Office of the Legislative Fiscal Analyst to conduct a study and prepare a report regarding the state revenue impacts of sales and use tax exemptions under Section 59-12-104.

AMENDS: [52-4-103](#), [59-1-403](#), [63N-1-201](#)  
ENACTS: [36-30-101](#), [36-30-102](#), [36-30-201](#), [36-30-202](#), [36-30-203](#)

## REVENUE AND TAXATION MODIFICATIONS

[HB 26](#)

Rep. Daniel McCay

Short raising taxes by increasing the certified tax rate, new growth property tax revenues for counties and cities remain the only hedge we have against inflation. This bill amends and narrows the definition of new growth to exclude a change in assessed value that occurs due to assessment under the Farmland Assessment Act (Greenbelt) or the Urban Farming Assessment Act.

AMENDS: 59-2-924

## PUBLIC EMPLOYEES LONG-TERM DISABILITY ACT

[HB 28](#)

Rep. K. Duckworth

For public employees on long-term disability, any benefits received are to be reduced by any compensation received through employment and self-employment. During periods of total disability, the employee is to inform the program operators of any awards or compensation received to determine the appropriate disability payments. Failure to do so could result in the reduction, suspension, or termination of the benefits.

If your entity's policies contain specific provisions regarding this issue, you will need to update those policies to reflect this change.

EFFECTIVE DATE: July 1, 2017

AMENDS: 49-21-402

ENACTS: 49-21-409

## **HISTORIC PRESERVATION AMENDMENTS**

[HB 30](#)

Rep. Daniel W. Thatcher

This bill addresses administrative decisions and appeals related to land use applications in historic preservation districts or areas. Most notably, it enacts a provision that authorizes a legislative body to designate a historic preservation authority which may recommend land use regulations to preserve local historic districts or areas and administer local historic preservation land use regulations within a local historic district or area. A local historic district or area is a definable area containing buildings or features that contribute to the historic preservation goals of a legislative body and is subject to land use regulations to preserve the historic significance. The bill also requires that each municipality that creates a historic preservation district or area also establish an appeal authority to hear and decide appeals from decisions of the historic preservation authority.

AMENDS: 10-9a-103; 10-9a-503; 10-9a-701; 10-9a-703; 10-9a-704

ENACTS: 10-9a-527

## **ASSESSMENT AREA ACT AMENDMENTS**

[HB 32](#)

Rep. Curt Webb

This bill modifies provisions of the Assessment Area Act. An "assessment area" is an area that is designated by a local entity for the purpose of financing the costs of improvements, operation and maintenance, or economic promotion activities that benefit property within the area. Specifically, this bill clarifies what must be included in a notice of a proposed assessment area designation and provides that a local entity that levies an assessment for economic promotion activities shall assess each benefitted property.

AMENDS: 11-42-202, 11-42-409.

## **AFFORDABLE HOUSING AMENDMENTS**

[HB 36](#)

Rep. Rebecca P. Edwards

This bill modifies several provisions related to funding affordable housing projects. This bill creates an Economic Revitalization and Investment Fund to oversee the allocation of this funding. It gives affordable housing projects where local public bodies and governments have invested matching funds, infrastructure, improvements, or other investments a preferred funding status. The bill also sets forth several other criteria to obtain preferred funding status. It also alters several low-income tax provisions.

Local government would be well advised to invest in projects that further their community's goals because local government involvement weighs heavily in obtaining preferred funding status.

AMENDS: 35A-8-501; 38A-8-506; 59-7-607; 59-10-1010

ENACTS: 35A-8-509; 35A-8-510; 35A-8-511; 35A-8-512; 35A-8-513\

## **LOCAL OFFICER AMENDMENTS**

[HB 39](#)

Rep. R. Curt Webb

This legislature removes the deadline for a appointment of city treasurer in a third, fourth, or fifth class city or town. Instead, it requires that "best efforts" be used to not have the position be vacant.

This bill requires no action by local governments other than to disseminate the additional criteria to the appropriate staff.

AMEND 10-3-916

## **PROPERTY TAX ASSESSMENT APPEAL AMENDMENTS**

[HB 47](#)

Rep. Joel K. Briscoe

HB 47 addresses greenbelt assessment. It provides that if an owner applies for greenbelt assessment and the application is incomplete, the county must notify the owner and provide the owner 30 days to complete the application. If the application is not completed, it is considered denied. The bill also provides that the owner may appeal any determination on greenbelt assessment (or a failure to make a determination) to the county board of equalization within 45 days.

AMENDS: 59-2-502; 59-2-506; 59-2-508; 59-2-1705; 59-2-1707.

ENACTS: 59-2-516; 59-2-1713.

## WILDLIFE SPECIES INTRODUCTION AMENDMENTS

[HB 48](#)

Rep. Carl Albrecht

This bill makes it a class A Misdemeanor if a person releases or transplants wildlife into the wild without a certificate of registration issued by the Division of Wildlife Resources authorizing the animal's release. The bill further restricts the transplanting of big game, turkeys, wolves, threatened or endangered species, or sensitive species into the wild without authorization by the Division of Wildlife Resources. If a person knowingly and without legal authority transports the above-mentioned wildlife or releases an endangered or threatened species under the Endangered Species Act into an area of the state not known to be occupied by the species, the person is guilty of a third-degree felony.

Amends: §23-13-14

## OPIOID PRESCRIBING REGULATIONS

[HB 50](#)

Rep. Raymond Ward

This bill limits the quantities of a Schedule II or III opiate prescription. A first prescription issued for an acute condition may not exceed a seven-day supply as directed on the daily dosage rate of the prescription, *unless* the prescription is issued for a surgery when the practitioner determines a larger quantity is needed, in which case the practitioner may prescribe up to a 30-day supply. Documented chronic or complex conditions are exempt.

Prescribers are required to check the Controlled Substance Database for information about the patient before the first prescription for a Schedule II or III opioid unless: the prescription is for three days or fewer; the prescriber already knows the patient's prescription history; or it's a post-surgery prescription.

AMENDS: §§58-37-6; 58-37f-301; 58-37f-304; and 63I-1-258

## OFF-HIGHWAY VEHICLE AMENDMENTS

[HB 51](#)

Rep. Derrin R. Owens

This legislation amends UCA §41-22-2's requirements for persons under age 8 to operate an OHV. Previously, a child under 8 could operate a motorcycle during an organized practice or sanctioned race. With the legislation, a child under age 8 can now operate a broad range of OHV's in organized practice or a sanctioned race under the "direct" supervision of an adult. Previously, children on motorcycles had to be under the "immediate" supervision of an adult. The statute had always defined "direct supervision" but not "immediate supervision." The

legislation also repeals the requirement that an ambulance be on premises to provide assistance for a sanctioned race.

This legislation also amends UCA § 41-22-30. Previously, to operate an OHV on a public trail or street etc., a person had to be under the direct supervision of a “Certified” safety instructor. With the legislation, the instructor does not need to be certified, but the use of an OHV on public property must be in a training course approved by the Board of Parks and Recreation

This legislation also amends UCA § 41-22-31. Previously, the Board of Parks and Recreation were tasked with making rules to establish standards for OHV safety course curriculum. The legislation requires that the Board make those rules in accordance with the Utah Administrative Rulemaking Act.

This legislation also creates UCA § 41-22-32. This new statute allows the Division of Parks and Recreation to make rules that establish standards for OHV safety courses. It also mandates the Division of Parks and Recreation to approve a private organization to provide OHV safety courses if they meet the standards set by the Division.

This legislation also amends UCA 41-22-33. The legislation revokes the Division of Parks and Recreation’s authority to collect fees for persons who take an OHV safety course or take an OHV safety test. This legislation also revokes the Division’s authority to compensate instructors of safety courses. Further, the legislation repeals the duty of safety course instructors to report to the Division the amount of income earned to conduct OHV safety training.

AMENDS: 41-22-2, 41-22-29, 41-22-30, 41-22-31, and 41-22-33  
REPEALS AND REENACTS: 41-22-32

## **POLITICAL CONTRIBUTION REPORTING AMENDMENTS**

[HB 52](#)

Rep. Brad Daw

This bill makes it a class B misdemeanor to conspire with another to make a campaign contribution through multiple persons with intent to obscure the original source. This is distinct from the “conspiracy” statute (§76-4-201) and invites the question of whether a person could be guilty of conspiring with another to conspire with another.

ENACTS: §20A-11-101.7

## **CAMPUS FREE SPEECH AMENDMENTS**

[HB 54](#)

Rep. Kim Coleman

Dealing with State Institutions of Higher Learning this bill creates the Campus Individual Rights Act. This Act protects activities that occur out door like peacefully assembling, protesting or speaking, distributing literature, carrying a sign or circulating a petition, declaring them a traditional public forum. The institution can maintain reasonable time, place or manner restrictions if the restrictions are narrowly tailored to serve institutional interest. The bill also creates a cause of action for state court to enjoin or recover damages or recover court costs or reasonable attorney fees.

Claims can be brought by the attorney general or the person grieved. Further damages are outlined in statute. Cause of action has to be brought within one year of violation. Government immunity does not apply to actions brought under this section.

ENACTS: 53B-27-101, 53B-27-102, 53B-27-201, 53B-27-202, 53B-27-203, 53B-27-204, 53B-27-205

## **GOVERNMENTAL NONPROFIT ENTITY COMPLIANCE AMENDMENTS**

[HB 55](#)

Rep. Kim Coleman

This bill enacts Title 11, Chapter 13a Governmental Nonprofit Corporations Act. Under this bill, nonprofit corporations which meet the definition of a “governmental nonprofit corporation” will be required to comply with:

1. Fiscal procedures under the Interlocal Cooperation Act
2. Government Records Access and Management Act
3. Open and Public Meetings Act

This bill also places additional meeting requirements on a “governmental nonprofit corporation” as well as additional requirements on its governing board.

A “governmental nonprofit corporation” is a nonprofit (except a water company until July 1, 2019 when it expires) that is:

- a. Wholly owned or wholly controlled by one or more governmental entities unless no operating funding or other financial support comes from any governmental entity OR
- b. There is a controlling interest by one or more governmental entities AND

- c. It exercises taxing authority OR
- d. Participation or association is mandated by law and the nonprofit imposes a mandatory fee for participation or association OR
- e. A majority of the operating funding comes from one or more governmental entities except where it is voluntary membership fees, dues or assessments

Practice pointer: It is unclear what entity or entities this bill was meant to encompass as currently only the state can directly establish a nonprofit corporation under Title 16. However, counties and municipalities would be advised to review any corporation created before the Interlocal Cooperation Act was enacted that may still be in existence as they may now qualify as a governmental nonprofit. This bill also raises another interesting question. For governmental entities who in the past have partnered with traditional nonprofits for grant solicitation purposes, does HB55 now allow counties, municipalities and other governmental entities to establish wholly owned governmental nonprofit corporations to apply for grants requiring 501(c)(3)status?

AMENDS: 11-13-501, 51-2a-102, 51-2a-403, 52-4-103, 63G-2-103, and 63I-2-211

ENACTS: 11-13a-101, 11-13a-102, 11-13a-103, and 11-13a-104

## **ACCESSIBLE PARKING AMENDMENTS**

[HB 56](#)

Rep Keven Stratton

This bill creates new definitions pertaining to handicap parking stalls. It creates a wheelchair user placard and makes changes to placards issued to those with temporary walking disabilities. Finally, this bill eliminates the requirement to hang the placard from the rearview mirror and now requires that the placard be displayed so it is visible from the front of the vehicle.

AMENDS: 41-1a-414; 41-1a-420; 41-1a-1306

## **DIRECT FOOD SALES AMENDMENTS**

[HB 58](#)

Rep. Scott D. Sandall

This bill affects Cottage food operators. Cottage food operators are people who make and sell baked goods, jam, or other non-potentially hazardous foods that are made in their own homes. This bill allows the Utah Department of Agriculture and Food greater regulatory oversight by removing certain express criteria from the statute and transferring that to the Departments rule-making discretion.



This bill requires no action by Local government other than to disseminate the updates to the appropriate licensing staff.

AMENDS: 4-5-9.5

## **PROPERTY TAX RELIEF AMENDMENTS**

[HB 64](#)

Rep. Jeremy A. Peterson

HB 64 primarily clarifies existing law for circuit breaker relief. Circuit breaker relief is property tax relief that is given to individuals who meet certain age and income requirements. The bill clarifies that a surviving spouse of a circuit breaker claimant may receive circuit breaker relief regardless of age as long as they meet the other circuit breaker requirements, were part of the same household of the deceased spouse at time of death, and the surviving spouse is unmarried at the time of the claim filing. The bill has retrospective operation to January 1, 2017.

AMENDS: 59-2-1202

## **OPIATE OVERDOSE RESPONSE ACT AMENDMENTS**

[HB 66](#)

Rep. Carol Spackman-Moss

This bill expands the definition of “overdose outreach provider” to include “an individual licensed to practice pharmacy under Title 58, Chapter 17b, Pharmacy Practice Act.” It clarifies that, except for health care facilities and providers, people are not civilly liable for the good faith administration of an opiate antagonist to someone believed to be experiencing an opiate overdose. It also authorizes overdose outreach provider to furnish opiate antagonists to other overdose outreach providers. Finally, it clarifies that dispensing a prescription as permitted by the Opiate Overdose Response Act is not unlawful.

AMENDS: §§26-55-102; 26-55-104; 26-55-106; and 58-17b-501

## **COMMON AREA ASSESSMENT AMENDMENTS**

[HB 70](#)

Rep. Gage Froerer

This bill provides that when assessing the fair market value of property that is a common area or facility, a county assessor shall consider factors relating to the property and neighboring property that affect the fair market value of the property being assessed.

AMENDS: 59-2-301.1

## **STREET LEGAL ALL-TERRAIN VEHICLE AMENDMENTS**

[HB 82](#)

Rep. Michael E. Noel

This legislation establishes additional requirements a County of the First Class must meet in order to restrict street-legal ATV access on public highways. After HB 82, Counties of the First Class can only restrict street legal ATV access on public highways if the highway is near a grade separated portion of the highway, the highway has a posted speed limit of 50 MPH or higher; and the public highway is designated by notice as restricted to ATVs.

AMENDS: 41-6a-1509

## **COUNTY COMMISSION ELECTION AMENDMENTS**

[HB 91](#)

Rep. Norman Thurston

This bill provides counties of the first and second class a different option for conducting elections when there are multiple vacancies on the county commission at the same time. Under the law that existed before this bill was passed, when there were multiple vacancies, a county would designate different seats, candidates would file for a particular seat, and only those candidates for a particular seat would be chosen for that seat via the primary and general elections. This bill allows counties of the first and second class the option of opening up all county commission vacant seats to all candidates, and not requiring candidates to choose which seat to run for.

For example, if there were two vacant county commission seats up for election in an election cycle, the old law required a county to designate those seats as Seat A and Seat B, and candidates would have to choose whether to run for Seat A or Seat B. This bill allows a candidate to run for both vacant seats, and the two candidates with the most votes would win the primary or general election.

This option is available for 3-member county commissions, as well as expanded 5 or 7-member county commissions. The option is also available for multiple midterm vacancies if such exist simultaneously. A county of the first or second class exercises this option by amending either its optional plan or ordinances.

AMENDS: 17-52-401, 17-52-501, 17-52-502, 20A-1-508, 20A-9-409

## **BIGAMY OFFENSE AMENDMENTS**

[HB 99](#)

Rep. Michael E. Noel

This simple bill changes the statute to recognize that a person who knowingly purports to marry and cohabitates with a husband or wife or knowing the other has a husband or wife and does same is guilty of a third degree felony. The penalty becomes a second degree felony if the accused is also convicted of inducing marriage or bigamy under false pretenses or fraud or domestic abuse, or child abuse or sexual abuse or human trafficking or human smuggling. Also included in the bill are the following defenses: the accused and the other person reasonably believed they were legally eligible to marry, or the accused left under a reasonable fear of coercion or bodily harm or the accused was a minor who left the relationship or the accused stayed to protect the safety and welfare of a minor child.

AMENDS: 76-7-101

## **MOTOR VEHICLE EMISSION**

[HB 104](#)

Rep. Logan Wilde

This bill amends provisions relating to local emissions compliance fees. The bill provides counties that impose a local emissions compliance fee the option to use revenues generated from that fee to promote programs to maintain local, state, or national ambient air quality standards.

AMENDS: 41-6a-1642

## **EARLY VOTING AMENDMENTS**

[HB 105](#)

Rep. Craig Hall

This bill amends the Election Code in relation to early voting. State law currently allows early voting from two weeks before the election date until the Friday before the election date if the election date is a Tuesday. This bill adds a provision which allows the election officer to extend early voting until the day before an election date with proper notice.

AMENDS: 20a-3-601

## UTAH UNIFORM SECURITIES ACT AMENDMENTS

[HB 106](#)

Rep. Craig Hall

A very simply fix to the code when determining restitution for Security cases. When contemplating the amount to be paid you exclude interest totals in the amount. Once you have your total you then use 12% as contemplated in the statute.

AMENDS: 61-1-22

## CONTROLLED SUBSTANCE AMENDMENTS

[HB 110](#)

Rep. Paul Ray

Last summer two teenagers from Park City died from using the synthetic drug “pink” a form of Fentanyl which is extremely potent and dangerous. On the recommendation of the Utah Substance Abuse Advisory Council three forms of Fentanyl are added to 58-37-4 Schedule I. Those are Acetyl Fentanyl, Butyryl Fentanyl and Furanyl Fentanyl. Also added is U-47700.

In the never-ending battle to control synthetic cannabinoids also known as spice, three new formulations were added to the listed controlled substances in 58-37-4.2.

AMENDS: 58-37-4; 58-37-4.2

EFFECTIVE DATE: Appropriately this bill went into effect upon being signed by the Governor which was on 3/21/17.

## SOLID WASTE REVISIONS

[HB 115](#)

Rep. Mike K. McKell

This bill amends the solid waste regulations of the Utah Code. The bill provides that no persons may own, construct, modify, or operate any facility or site for the purpose of transferring, treating, or disposing of nonhazardous solid waste without first submitting and receiving regulatory approval for a site operation plan. The bill defines and regulates the “transfer” of nonhazardous solid waste between facilities. The bill also allows the transfer of out-of-state nonhazardous solid waste into Utah for disposal or treatment, subject to the standards of Utah law, irrespective of how the waste was classified in its state of origin. Finally, the bill modifies and updates the fee schedule for nonhazardous solid waste treatment and disposal, and makes technical changes.

AMENDS: 19-6-102, 19-6-105, 19-6-108, 19-6-108.5, 19-6-119, 19-6-502

## LEGAL NOTICE AMENDMENTS

[HB 117](#)

Rep. Scott H. Chew

This bill amends a provision related to legal notice by publication in a newspaper of general circulation. It modifies the definition of “newspaper of general circulation” to mean a newspaper that: (1) has a bona fide subscription list of not less than 200 subscribers in this state; (2) has been published for 18 months or longer; and (3)(a) has been eligible for mailing under a United States Postal Service periodicals permit for at least 12 months; or (3)(b) publishes at least 12 issues in each year and is composed of, as a percentage of each issue’s total content not including inserts and special sections, at least 25% content that: the newspaper receives no compensation to publish and is of local or general interest.

AMENDS: 45-1-201.

## ADULT PROTECTIVE SERVICES AMENDMENTS

[HB 129](#)

Rep. Rebecca P. Edwards

This bill establishes the means and criteria for Adult Protective Services to obtain court authority to provide emergency protective services to a vulnerable adult in an emergency. Additionally, it defines “emergency protective services” as means measures taken by Adult Protective Services under time-limited, court-ordered authority for the purpose of remediating an emergency. The bill states that protective services are provided only on a voluntary basis, whereas emergency protective services are provided under court order. It allows the Division of Occupational and Professional Licensing access to the Adult Protective Services database. Further, it allows a court to authorize forcible entry by a peace officer into the premises where a vulnerable adult may be found.

The bill repeals authority and procedures for court-ordered involuntary protective services. The emergency protective services order, created by the bill, expires five (5) business days after it is ordered unless the appropriate party petitions for temporary guardianship.

AMENDS: 62A-3-301, 62A-3-302, 62A-3-303, 62A-3-312, 62A-3-315, 62A-3-317. 62A-3-320, and 62A-3-321

REPEALS: 62A-3-318 and 62A-3-319

## JUVENILE OFFENSES AMENDMENTS

[HB123](#)

Rep. Marc Roberts

This bill limits some mandatory prison sentences under §76-3-406 and ineligibility for diversion under §77-2-9 if the defendant was a juvenile at the time of the offense and the matter would have been adjudicated in juvenile court “but for the delayed reporting or delayed filing of the Information.” The bill also amends the offense “Unlawful sexual activity with a minor” so that it can only be committed by a person 18 years or older.

The bill creates a new non-registerable sex offense for juveniles that is not eligible for nonjudicial adjustment. “Unlawful adolescent sexual activity,” which is defined as sexual activity between people in the age range of 12 to 17 under circumstances not amounting to: rape, rape of a child, object rape, object rape of a child, forcible sodomy, sodomy on a child, aggravated sexual assault, sexual abuse of a child, or incest. The offense level is tiered depending on the age of the participants. See the penalty chart below:

12 AGE	13	14	15	16	17
MC12	MC	MA	MA	F3	F3
MC13	MC	MC	MB	MA	F3
— 14	—	—	—	—	MB
— 15	—	—	—	—	—
— 16	—	—	—	—	—
— 17	—	—	—	—	—

NOTE: “Unlawful adolescent sexual activity” is a discretionary tool for prosecutors. It does not prevent prosecutors from filing a charge of rape of a child against a 17-year old who has sexual intercourse with a 12-year old. The sponsor of the legislation expressed concern that teenagers engaged in noncoercive sexual behavior among peers should not face a first-degree felony. In the version passed, this bill creates an alternative filing option: 401.3. Keep in mind that at a trial it will be difficult for a prosecutor to prove a sexual act was not covered by one of the enumerated alternative offenses.

AMENDS: §§76-3-406; 76-5-401; and 77-2-9

ENACTS: §76-5-401.3

## ASSAULT ON A PEACE OFFICER AMENDMENTS

[HB 124](#)

Rep. A Cory Maloy

The definition of “peace officer” as used in the assault against a peace officer statute is expanded to include the following: a correctional officer as defined in 53-13-104, a special function officer as defined in 53-13-105 and a federal officer as defined in 53-13-106.

This is a fairly broad expansion on the concept of assault against a peace officer for instance in 53-13-104 a “correctional officer” means a sworn and certified officer employed by the Department of Corrections, any political subdivision or even a private entity which contracts with the state or its political subdivisions to incarcerate inmates. DOT agents, school district security officers, etc. “federal officers” includes FBI, Secret Service, Homeland Security, ATF, DEA, US Marshals and US Postal Inspectors.

AMENDS: 76-5-102.4

## CANNABINOID RESEARCH

[HB130](#)

Rep. Brad Daw

This bill is an attempt to legalize medicinal marijuana research. In narrow circumstances, possessing or distributing a cannabinoid product is legal. A legal product must be in medicinal dosage form and contain at least 10 units of cannabidiol for every unit of tetrahydrocannabinol. To legally possess or distribute a cannabinoid product, a person must conduct a medical research study:

1. With the purpose of investigating risks and benefits of cannabinoid products; and
2. Approved by an institutional review board registered for human subject research by the United States Department of Health and Human Services.
- 3.

Note: Marijuana products are still illegal except in one of the following forms: tablet, capsule, oil, liquid suspension, a transdermal preparation, or a sublingual preparation. So, if it’s an edible or part of the plant itself, it is illegal. Even if the product is in a “medicinal dosage,” look for evidence the possessor is *conducting* a medical research study and ascertain whether an institutional review board approved the study.

EFFECTIVE DATE: Upon signature of the Governor

ENACTS: §§26-59-101; 26-59-102; 26-59-103; 26-59-201; 26-59-202; 58-37-3.6

## CANDIDATE FILING REQUIREMENTS

[HB 133](#)

Rep. Carol Spackman Moss

This bill changes the candidate filing requirements for candidates for U.S. president and vice president. It requires registered political parties to certify their president and vice president candidates on or before August 31 of the general election year. See 20A-9-202(4). Vice president candidates who are not certified by a registered political party and write in candidates must file a signed declaration of candidacy on or before August 31 that states the candidate’s name and contact information, certifies the candidate is qualified to hold office, is willing to be the joint ticket running mate of the presidential candidate, includes a letter from the presidential

candidate confirming the declarant as a joint ticket running mate, and includes payment of any applicable filing fees. See 20A-9-202(8); 20A-9-601(b)(iii). Failure to meet any of this requirements bars appearance on the general election ballot. 20A-9-202(8)(c). Unaffiliated candidates for U.S. president must select an unaffiliated candidate for vice president as a running mate no later than 5 p.m. of August 15 of the election year; and that vice-presidential candidate must file a declaration of candidacy no later than 5 p.m. of August 15.

AMENDS: 20A-9-201, 202, 504, and 601.

## **PUBLIC SAFETY AMENDMENTS**

[HB 138](#)

Rep. Edward H. Redd

The custodial sexual relations section 76-5-412 is now expanded to include special function officers as defined in 53-13-105. This is entirely appropriate as special function officers in charge of persons in custody have the same unequal power position over those in custody as do other correctional officers or law enforcement officers.

AMENDS: 76-5-412

## **CRIMINAL INTENT AMENDMENTS**

[HB139](#)

Rep. Keven Stratton

Voluntary intoxication is an available defense when the intoxication negates a mental state of knowing or intentional as an element of the offense. This bill prohibits using voluntary intoxication as a defense to sexual offenses 76-5 Part 4.

AMENDS: §76-2-306

## **TAX ADVISORY BOARD AMENDMENTS**

[HB143](#)

Rep. Adam Gardiner

This bill modifies the membership requirements for tax advisory board members for a county of the first class. Of the nine-member board, four members shall be residents of a county of the first class. This bill eliminates the previous requirement that these four seats be apportioned between members residing in incorporated and unincorporated areas of the county.

AMENDS: 59-12-603



## CHILD ABUSE OFFENDER REGISTRY

[HB 149](#)

Rep. Derrin R. Owens

We now have a Child Abuse Offender Registry similar to the Sex and Kidnap Offender Registry. The new section 77-43-101 establishes the Child Abuse Offenders Registry under the Department of Corrections.

Under 77-43-102 a “child abuse offender” means any person convicted of a felony violation child abuse, human trafficking of a child or attempting, soliciting or conspiring to commit any of those felonies. It also includes any person convicted of a similar crime or attempt etc. in another jurisdiction including any state, federal or military court that is substantially equivalent to the Utah offenses. The out of state person would have to register if they become a Utah resident or if not a Utah resident reside in the state for 10 or more days in any 12-month period, or is required to register as a child abuse offender in another jurisdiction and is in the state for more than 10 days in a 12-month period.

There are additional provisions regarding a person found not guilty by reason of insanity or those juveniles who are adjudicated delinquent regarding one of those offenses who have been committed to secure confinement 30 days before the persons 21<sup>st</sup> birthday.

Other familiar provisions include 77-43-102 regarding registration of offenders in the custody of the Department of Corrections who are to be registered by Corrections when placed on probation, committed to a secure correctional facility or released from parole status.

Under 77-43-105 offenders are required to register with the Department within 10 days of entering the state or if no longer under the supervision of corrections register with the police department or sheriff’s office with jurisdiction over the offender’s residence and for the duration of the offender’s sentence and 10 years after termination of sentence or custody register every month during the month of the offender’s date of birth and also in the 6<sup>th</sup> month after the offenders date of birth. The offender is also required to register within 3 business days any change of primary residence, secondary residence, place of employment, etc.

Jurisdiction and venue provisions for failure to register are essentially the same as provided in the Sex and Kidnap Offender Registry. In 76-3-402 there is now a prohibition on granting a reduction of sentence of a conviction that requires a person to register as a child abuse offender until the registration requirements have expired. There is also a prohibition of a 402 reduction for a lifetime registration requirement. Under 77-40-105 the person is ineligible for expungement of a registerable child abuse offense.

77-43-106 establishes a 3<sup>rd</sup> degree felony for any offender who knowingly fails to register or provides false or incomplete information. This crime also carries a mandatory minimum incarceration time of not less than 90 days and also at least 1 year of probation. Neither the court nor the Board of Pardons & Parole has authority to release under less than that time.

Offenders required to register are required to pay an annual fee of \$100.00 each year to the Department of Corrections and pay the registering agency if it is an agency other than the Department of Corrections an annual fee of not more than \$25.00 for providing registration.

AMENDS: 53-3-806.5; 62A-7-104; 63G-2-302; 76-1-201; 76-1-202; 76-3-402; 77-40-105; enacts 77-43-101 through 77-43-109.

EFFECTIVE DATE: The register requirements apply to all child abuse offenders in the custody of the Department of Corrections or on parole or probation on May 9<sup>th</sup>, 2017, or who enter the state on or after May 9<sup>th</sup>, 2017.

## **TELEHEALTH AMENDMENTS**

[HB 154](#)

Rep. Ken Ivory

This bill expands the recognition and acceptance of telehealth medical programs by enacting amendments to the Medical Assistance Act and Insurance Code, requiring telehealth reimbursement by PEHP, and commissioning an ongoing legislative study of the subject.

AMENDS: 31 26-18-13; 31A-22-613.5.

ENACTS: 34 26-18-13.5; 26-59-101; 26-59-102; 26-59-103; 26-59-104; 26-59-105; 49-20-414.

## **DRIVING UNDER THE INFLUENCE AND PUBLIC SAFETY REVISIONS**

[HB 155](#)

Rep Norman Thurston

This bill reduces the per se BAC limit for DUI from .08 to .05, making Utah the first state in the country to adopt this per se standard. This same reduction to .05 BAC applies to Automobile Homicide as well. The bill also creates new definitions for alcohol restricted drivers, including a “Novice learner driver” and a “Novice licensed driver.” A novice learner driver is anyone that obtains a Utah driver license that has not previously held a driver license in any other state. A novice licensed driver is a person that has had their Utah driver license for less than two years, and has not previously held a driver license in any other state. It also creates a statutory requirement that each law enforcement agency ensures each officer receives training on the current standardized field sobriety testing guidelines from NHTSA. This bill does not go into effect until December 30, 2018.

AMENDS: 34A-3-112; 41-6a-501; 41-6a-502; 41-6a-529; 76-5-207

ENACTS: 41-6a-515.5

## **CAMPAIGN CONTRIBUTION SOLICITATION AMENDMENTS**

[HB 160](#)

Rep. Patrice Arents

This bill amends the Election Code regarding the political activities of government entities by enacting a comprehensive definition of “contribution” for political purposes, to include gifts and loans, contracts and promises, compensation for personal services, remuneration from PACs or government entities, and in-kind contributions. The bill further prohibits the use of a government-owned email system to solicit campaign contributions.

Practice pointers: Government agencies should provide information and training to staff regarding the very strict limits the law places on the use of taxpayer-funded resources for political purposes.

AMENDS: 20A-11-1202; 20A-11-1205.

## **PEDESTRIAN SAFETY AMENDMENTS**

[HB 161](#)

Rep Steve Eliason

This bill prohibits panhandling under certain defined circumstances. A pedestrian may not take possession of money or other property from a person within a motor vehicle while that motor vehicle is in any of the following places: an interstate system; a freeway; a state highway; a state route; or a highway that is paved and has a posted speed limit 35 mph or higher. This includes shoulder areas, on-ramps, off-ramps, and areas between roadways on a divided highway. This does not, however, include sidewalks adjacent to such defined roadways. It also exempts other activities such as exchanging insurance and/or contact information after an accident or other actions that occur while the vehicle is legally parked.

AMENDS: 41-6a-1009

## **DRIVING UNDER THE INFLUENCE CLASSIFICATION AND SENTENCING REVISIONS**

[HB 162](#)

Rep Steve Eliason

Driving under the influence sentencing requirements are modified in this bill as follows:

1. A first conviction sentence can no longer include home confinement in lieu of jail or community service.
2. A second offense sentence now requires either 240 hours of jail (no long has to be consecutive) OR a minimum of 120 hours in jail in addition to 720 consecutive hours of

electronic *and* substance abuse monitoring. The prior allowance of 240 hours community service or home confinement has been removed.

3. For convictions under 41-6a-503(2), home confinement is no longer allowable.

This bill requires no immediate action but should be disseminated to all appropriate staff, especially law enforcement and prosecution for implementation once in effect.

AMENDS: 41-6a-505

## **MUNICIPALITY PER DIEM AMENDMENTS**

[HB 163](#)

Rep. Craig Hall

This bill modifies provisions regarding per diem and travel expenses for board members serving on a board created by or within a political subdivision and provides definitions for terms used. Per diem and travel expenses cannot exceed rates set by the Division of Finance.

This bill requires no action by local governments other than to disseminate the additional criteria to the appropriate staff.

AMENDS: 10-9-301, 17-16-16, 17-27a-301, 17-31-8, 17-33-4, 17B-1-307, 17B-1-312, 17B-2a-807, 17D-3-301

ENACTS: 11-55-101 through 103

## **MUNICIPAL ENTERPRISE FUND AMENDMENTS**

[HB 164](#)

Rep. J. Moss

If your municipality has an enterprise fund and you plan to transfer money from that fund to another place in your budget, you now have to hold an Enterprise Fund Hearing. This hearing must be a public hearing separate from budget hearings and other public hearings. You must give at least 7 days notice of the hearing and if people are billed by the enterprise fund, they must receive notice in the same manner they are billed. The notice must also be on the Utah Public Notice Website, the municipality's website, and elsewhere the municipality uses to communicate.

The notice must include an explanation regarding the intended transfer, the amount of the transfer in dollars and percentages, the date, time and place of the hearing, and the purpose of the hearing.

At the hearing there must be an explanation of the intended transfer, a providing of the fund's accounting data, and the allowance of members of the public to comment on that information.

If the municipality adopts a budget or a budget amendment that includes transfers from enterprise funds, it must provide notice to the customers of the enterprise fund in a similar manner. The municipality must also provide the enterprise fund information to the state auditor for each fund from which funds are transferred. Enjoy!

AMENDS: 10-5-107; 10-6-135  
ENACTS: 10-5-107.5; 10-6-135.5

## **FIREARM RECORDS PROTECTION AMENDMENTS**

[HB 174](#)

Rep. Val K. Potter

Under federal law a chief law enforcement officer or his designee may be required to produce a certification that a person is not prohibited from receiving or possessing a firearm or is not the subject of proceeding that could result that person being prohibited from receiving or possessing a firearm. Under federal law chief law enforcement officers also receive notifications but there is no provision of law stating how long those documents must be kept. This bill provides that the chief law enforcement officer shall destroy and delete the certification and any record within 15 days after receiving it.

AMENDS: 53-5a-104

## **GOOD LANDLORD AMENDMENTS**

[HB 178](#)

Rep. Brian S. King

This bill prohibits a municipality from requiring a residential landlord to deny tenancy to an individual based on that person's criminal history unless the municipality has a halfway house located within the municipality. This changed the previous criteria where a municipality could not require a landlord to deny tenancy if the applicant was released from probation or parole and whose conviction date occurred more than four years before the date of tenancy.

Municipalities should review their Good Landlord program to ensure that they are in compliance with this new provision.

AMENDS: 10-1-203.5

## **CONTRABAND DEVICE DESTRUCTION**

[HB 184](#)

Rep. Justin L. Fawson

This bill allows computers (defined as electronic, magnetic, optical, electrochemical or other high-speed data processing device that performs logical, arithmetic, and storage functions etc.) in cases involving child pornography or used for fraud or ID theft to be considered contraband and thus be destroyed. But before you destroy this bill provides for the extraction of personal information from said computers. The law enforcement agency shall determine a reasonable cost to extract.

AMENDS: 24-1-102; 24-1-103

## **LOCAL GOVERNMENT OFFICIAL RESIDENCY AMENDMENTS**

[HB 186](#)

Rep. Lee B. Perry

Residency requirements of elected municipal officers are amended, with clarification provided through additional definitions. A principal place of residence is distinguished from a secondary residence. Vacancy of office by a municipal officer is automatic when, absent consent by its legislative body, (1) a primary place of residence is established outside of the municipality, (2) residency at a secondary residence exceeds 60 continuous days, or (3) the municipal officer fails to respond to a request for residency verification within 30 days after request is made.

This bill requires no action by local governments other than to disseminate the additional criteria to the appropriate staff.

AMENDS: 10-3-301

## **LOCAL HISTORIC DISTRICT AMENDMENTS**

[HB 188](#)

Rep. Brad Wilson

This bill clarifies that the process outlined in Utah Code subsection 10-9a-503(4) for citizens to create a local historic district is not the only process for creating a local historic district; the municipal legislative body still has authority to create a local historic district through its land use authority to create zoning districts under subsection 10-9a-503(1). The bill makes this clarification by defining a “citizen-led process” for creating a local historic district, and providing that subsection (4) requirements for that process (petition, information pamphlet, voting, etc.) only apply to a citizen-led process.

Curiously, this bill only applies to the Municipal Land Use Development Management Act, but not its County equivalent. The County equivalent does not even have subsection (4) relating to citizen-led local historic districts. Apparently, counties desiring to create local historic districts within the unincorporated county may do so via the regular legislative process of creating zoning districts; there is no citizen-led process prescribed for counties.

AMENDS: 10-9a-503

## **DISSOLUTION OF LOCAL DISTRICTS**

[HB 195](#)

Rep. Justin L. Fawson

This bill modifies the procedure to dissolve a local district. First, this bill reduces the threshold petitioners must reach to initiate a dissolution. The process to dissolve an active local district whose board of trustees is elected by electors based on the acre-feet of water allotted to the land owned by the elector may be initiated by a petition signed by the owners of 33% of the acre-feet of water allotted to the land within the local district.

The process to dissolve an active local district created to acquire or assess a groundwater right for the development and execution of a groundwater management plan in coordination with the state engineer may be initiated by the owners of groundwater rights that are diverted within the district and cover at least 33% of the total amount of groundwater diverted in accordance with the groundwater rights within the district as a whole.

The process to dissolve all other districts may be initiated by 33% of registered voters residing within the local district proposed to be dissolved or by the owners of private real property that: is located within the local district proposed to be dissolved; covers at least 33% of the private land area within the local district; and is equal in assessed value to at least 25% of the assessed value of all private real property within the local district.

The bill also modifies many procedural and public hearing requirements under 17B-1-1308. Now, the administrative body must hold a second public hearing within 180 days after the day in which the administrative body held the first hearing regarding the proposed dissolution. This second hearing is to address a number of items including (1) the result of the study (2) whether the proposed dissolution meets the statutorily prescribed criteria and (3) whether to adopt a resolution on the matter. Further, the bill enacts provisions relating to an election on how the local district should procedurally be dissolved. 17B-1-1309 now gives guidance on how the dissolution will be done depending on where the local district is geographically located.

In addition, the bill enacts requirements that notice be given to the lieutenant governor within 30 days after the adoption of a resolution approving the dissolution of an inactive local district or within 30 days after the day on which a majority of the voters within an active district approve of the dissolution in an election. When the lieutenant governor issues a certificate of

dissolution, the administrative body is directed how to proceed with the certificate depending on the district that is to be dissolved and its geographic location.

AMENDS: 17B-1-1303, 17B-1-1306, 17B-1-1308,

ENACTS: 17B-1-1309, 17B-1-1310

## **CONCEALED CARRY AMENDMENTS**

[HB 198](#)

Rep. Karianne Lisonbee

There is established by this bill a provisional permit to carry a concealed firearm for a person 18 years of age but not older than 20 years of age. The provisional permit is valid throughout the state until the person reaches the age of 21. The requirements to receive the provisional permit are essentially the same as those to receive a concealed carry permit. In order for the provisional permit holder to carry a concealed firearm in another state the person must meet the eligibility of the other state including the age requirement of the other state.

Notwithstanding the other provisions of Utah law a person under the age of 21 even with the provisional concealed carry permit may not carry a concealed firearm on or about school premises as defined in 76-10-505.5 (1)(a). That prohibition of course does not apply to institutions of higher education as the primary rationale given in support of this provision was for college students to protect themselves against sexual assault on campus.

AMENDS: 53-5-706; 53-5-707; 53-5-710; 53-10-202.5; enacts 53-5-704.5; 53-5-707.5

## **SEXUAL ASSAULT KIT PROCESSING AMENDMENTS**

[HB200](#)

Rep. Angela Romero

This bill sets forth the mandatory testing of all sexual assault kits by the Utah Bureau of Forensic Services (Bureau), except those kits gathered from a victim that declines to provide a statement to police regarding the assault. Testing of the kits must be completed in a certain amount of time as decided by the Bureau after the rulemaking process. Law enforcement, however, must collect kits within one day after they are collected from medical personnel and then they must input the kit's information in the statewide database within five days. The kits must then be turned over to the Bureau of Forensic Services within 30 days of their collection by law enforcement.

Victims are also entitled to notification by the kit collecting medical facility personnel who conduct the examination about physical or mental health consequences of their sexual assault. The medical facility collecting the equipment must notify law enforcement if a victim decides to provide a statement to law enforcement about the assault. If the victim declines to



provide information about the assault to law enforcement, the facility must notify law enforcement of the whereabouts of the kit, but the kit may not be submitted to the Bureau for analysis and data input.

The Department of Public Safety and the Utah Prosecution Council (UPC) shall develop a training in trauma-informed responses and investigations of sexual assault and sexual abuse, including the recognition of the symptoms of trauma and the impacts it has on victims. The training shall be offered to all certified law enforcement officers and peace officers in the state. This training may be offered in person or online. The Department must consult UPC on developing the training, including evidence-based curricular standards for post-assault report writing and proper response methods to victims of sexual assault.

ENACTS: §§76-5-601; 76-5-602; 76-5-603; 76-5-604; 76-5-605; 76-5-606; 76-5-607; 76-5-608; 76-5-609; and 76-5-610

## **DOMESTIC VIOLENCE - WEAPONS RESTRICTIONS**

[HB 201](#)

Rep. Brian S. King

In an interesting development, the Utah Legislature actually expanded the scope of category II restricted persons to include a person who is subject to a protective order or child protective order and a person who has been convicted of assault or aggravated assault against a co-habitant. This essentially brings Utah restricted person law into conformity with federal law regarding domestic violence. 76-10-503 is amended to expand the category II restricted persons to include “a respondent or defendant subject to a protective order or child protective order that is issued after a hearing for which the respondent or defendant received actual notice and at which the respondent or defendant has an opportunity to participate, that restrains the respondent or defendant from harassing, stalking...etc. an intimate partner...or a child of the intimate partner.” It also requires that the order include a finding that the respondent or defendant represents a credible threat to the physical safety of an intimate partner or the child of the intimate partner or the order may explicitly prohibit the use of or threatened use of physical force or the order may find that the person has been convicted of the commission or attempted commission of assault or aggravated assault against the protected party.

AMENDS: 76-10-503

## **TRESPASS AMENDMENTS**

[HB202](#)

Rep. Brian Greene

This legislation makes a long-term guest (more than 48 hours) guilty of trespass as a class B misdemeanor if he/she remains in a residence after the primary occupant (or someone

with apparent authority) personally communicates notice against remaining. Before a law enforcement officer escorts the guest from the home, he/she gets reasonable time to collect personal belongings.

ALERT: This law doesn't apply to a tenant, a person who paid the owner/occupant, or a person who entered an agreement to provide labor in exchange for a place to stay. In those scenarios, refer the owner/occupant to the eviction process.

ENACTS: §76-6-206

## **JAIL RELEASE ORDER AMENDMENTS**

[HB208](#)

Rep. Ken Ivory

This legislation expands the applicability of jail release agreements from covering only domestic violence to “qualifying offenses,” which includes: DV, offenses against a child or vulnerable adult, and any offense under Title 76 Chapter 5 Part 4 (Sexual Offenses). This bill also changes the time when a Jail release agreement expires from midnight on the day of the person’s initial appearance to midnight *after* the arrested person’s initial appearance.

AMENDS: §§53-10-403; 77-20-1; 77-36-1; 77-36-2.1; 77-36-2.4; 77-36-2.7; 77-36-6; 77-20-3.5.

## **FLASHING BRAKE LIGHT REVISIONS**

[HB 210](#)

Rep Stephen Handy

This bill makes technical changes to the definition of “continuously flashing light system” and removes the requirement that the rapid pulsating defined may not be repeated upon subsequent application of the brakes for at least five seconds.

AMENDS: 41-6a-1604

## **LIVESTOCK HARASSMENT**

[HB217](#)

Rep. Scott Chew

This bill prohibits using a motorized vehicle, dog, or drone to chase camels or other livestock with intent of causing distress. The bill exempts the owner of the livestock, an employee or agent of the owner, an employee or agent of the state acting in official capacity, emergencies, and generally accepted animal husbandry practices. Violation is a Class B, and a Class A for subsequent offenses or for harassment that seriously injures or kills livestock or causes more than \$1,000 damage.

ENACTS: §76-9-308.

## POLL LOCATION AMENDMENTS

[HB 218](#)

Rep. Craig Hall

This bill allows an election officer to designate additional early voting centers and election day voting centers after certain statutory deadlines have passed if he determines that there will be an insufficient number of election day voting centers. Notice of designations is required. It further amends the election notice requirement to allow either the location of each polling place or the publication of a website address that lists each polling place location. Last, it makes technical changes.

AMENDS: 11-14-202; 20A-3-603; 20A-3-604; 20A-3-703; 20A-5-101; 20A-7-702.

## RURAL TAX CREDIT AMENDMENTS

[HB 219](#)

Rep. Scott D. Sandall

HB 219 provides a nonrefundable income tax credit for donations to a nonprofit corporation in an enterprise zone for an approved project. Approved projects must be approved by the Governor's Rural Partnership Board. Arguably, this Bill is unconstitutional because it does not contain the standard language that requires the general fund to reimburse the education fund for the amount of the credit.

*Fiscal Note:* \$75,000 from the state education fund and \$36,700 from the state general fund.

AMENDS: 63C-10-103 and 63N-2-203.

ENACTS: 59-7-614.11, 59-10-1038, and 63N-2-213.5.

EFFECTIVE: Retrospective to January 1, 2017.

## CRIMINAL OFFENSE MODIFICATIONS

[HB222](#)

Rep. Stephen Handy

“Jessica’s Law” refers to a nationwide trend of imposing mandatory 25 year to life prison sentences on those convicted of specific sex crimes against children. Utah passed a version of Jessica’s Law in 2008. This bill adjusts the mandatory 25 to life sentences in some convictions for rape of a child, object rape of a child, and sodomy on a child. If a defendant is under 21, the offense is a first-time offense, and the court considers the age of the victim as well as the other facts and circumstances of the case, then the court may impose a sentence of 15, 10, or 6 to life if it would be in the interest of justice. The bill also prohibits lifetime registration for defendants under 21 where the offense did not involve force or coercion.

Note: Data suggests prosecutors have already been addressing questions about severe sentences in this age bracket by exercising discretion at the screening stage. Across Utah in 2016, prosecutors filed eighty-four (84) “Jessica’s Law” cases against juveniles and ninety-three (93) “Jessica’s Law” cases against adults 21 and older, but only eight (8) cases against adults between the age of 18 and 20. One possible consequence of this bill is prosecutors may be more likely to file “Jessica’s Law” cases against young adults.

AMENDS: §§76-5-402.1; 76-5-402.3; 76-5-403.1; 77-41-105.

## **AMENDMENTS RELATING TO LOCAL DISTRICTS**

[HB 229](#)

Rep. Daniel McCay

This bill sets forth the procedure for a municipality to withdraw from a service district. The municipality must adopt a resolution authorizing the withdrawal. This bill then allows for withdrawal if the municipality and district agree. However, under certain circumstances the municipality may need to conduct a feasibility study or obtain approval from the citizenry through a vote. The bill allows for certain exceptions to these requirements. The requirements of a feasibility are outlined in detail.

Local governments who are served by first responder districts should be familiar with the requirements of this bill before attempting to withdraw from those districts.

AMENDS: 17B-1-214; 17B-1-505; 17B-1-512

ENACTS: 17B-1-505.5

## **ELECTIONS REVISIONS**

[HB 230](#)

Rep. Brad M. Daw

Under the prior statute, if an election officer received a mail-in ballot with a signature that did not match the voter’s signature maintained on file, the election officer would immediately send the voter a new ballot and disqualify the original ballot. Under HB230, an election officer shall now instead contact the voter to inform them of the discrepancy, explain how the issue may be resolved and how to update the voter’s signature on file. If the voter is able to resolve the issue before the canvass has concluded, then the election officer shall count the voter’s ballot. Following each primary, general or special election, the Lieutenant Governor will conduct a signature audit in a variety of jurisdictions.

HB230 also requires two counting judges review each mail-in ballot that contains some question regarding the disposition of a vote recorded on the ballot—such as ballots containing a

defective mark or excessive marks. If the two judges disagree on the proper disposition of the vote in question, it shall not be counted.

AMENDS: 20A-2-305, 20A-3-302, 20A-3-305, 20A-4-104 and 20A-4-105

## **LAND USE AMENDMENTS**

[HB 232](#)

Rep. Mike Schultz

This bill affects how local governments make and enforce land use decisions. This bill is intended to help define, clarify, and separate administrative and legislative land use action. The bill requires that land use regulations must plainly restrict or a land use or else be interpreted in the applicant's favor. It defines and distinguishes land use decisions from land use regulations. It expressly identifies that a land use decision of a land use authority is an administrative act, even if the authority is a legislative body. The bill then establishes what actions are land use decisions and what are land use regulations. The bill establishes better parameters for appeal authorities and for court review of land use issues.

Local government should examine their code and tighten up what they want expressly prohibited. They should also examine the decision-making process to determine what will be considered administrative and what will be considered legislative action.

AMENDS: 10-9a-103; 10-9a-104; 10-9a-205; 10-9a-302; 10-9a-501; 10-9a-502; 10-9a-503; 10-9a-509; 10-9a-707; 10-9a-801; 11-36a-504; 17-27a-103; 17-27a-104; 17-27a-205; 17-27a-302; 17-27a-501; 17-27a-502; 17-27a-503; 17-27a-508; 17-27a-707; 17-27a-801; 17C-1-104; 63I-2-217

ENACTS: 10-9a-306; 17-27a-308

## **POST-EXPOSURE BLOOD TESTING AMENDMENTS**

[HB234](#)

Rep. Edward H. Redd

This bill allows a health care provider to request a blood sample if they are significantly exposed to a person's bodily fluids during the course of performing the provider's duties. A court order may be issued to compel a blood sample from an individual that exposes a significant amount of their bodily fluids to a health care provider if requested.

AMENDS: §78B-8-401; 78B-8-402; 78B-8-403; 78B-8-404; and 78B-8-405

## **AUTOMATED TRAFFIC ENFORCEMENT SAFETY DEVICES**

[HB 235](#)

Rep Mike McKell

This bill authorizes the use of automated traffic enforcement safety devices on school buses to capture a photograph or video image of drivers that violate the requirement to stop when a school bus is displaying its flashing red lights and has children boarding or exiting the school bus. It also provides that if evidence from the automated traffic enforcement safety device is used as evidence of a violation, that 20% of the fine collected will be given to the school district or private school that owns or contracts for the operation of the bus to offset the costs of the automated traffic safety device.

AMENDS: 41-6a-1302; 41-6a-1303; 78A-5-110; 78A-7-120

ENACTS: 41-6a-1310

## **JUVENILE JUSTICE AMENDMENTS**

[HB239](#)

Rep. Lowry v. Snow

This is an attempt to revamp juvenile justice in Utah. Although bill sponsors bristled at comparisons to the Justice Reinvestment Initiative, this bill has comparable breadth and depth in its impacts to the juvenile system. This summary identifies some key changes to various agencies involved.

### Referring Agency

When an officer files a formal referral, before referring the case to prosecutors, probation will screen it. If the minor meets three criteria for eligibility, a nonjudicial adjustment offer will be made before contacting prosecutors. Those criteria are:

The offense is a misdemeanor, infraction, or status offense;

1. The minor has fewer than 3 prior adjudications; and
2. The minor has no more than 3 unsuccessful attempts at nonjudicial adjustments.

Two exceptions: 1-probation may conduct a risk and needs assessment and refer otherwise eligible cases to prosecutors to screen for high risk cases or moderate risk on a class A misdemeanor. 2- Probation may offer a nonjudicial adjustment to any minor even if he/she doesn't meet the criteria.

## **Schools**

School boards may establish or partner with youth courts or comparable restorative justice programs. For truancy offenses and offenses committed on school property, minors may not be referred to juvenile court for infractions, a class C, or status offenses. For a class B and nonperson class A, the school administrator can decide whether to refer to law enforcement and the courts or an alternative. The alternatives to juvenile court are a mobile crisis outreach team, a JJS receiving center, or a youth court.

## **Nonjudicial Adjustments**

Nonjudicial adjustments can no longer be predicated on a minor's admission of guilt or ability to pay a financial penalty. Fees, fines, and restitution must be based on the ability of the minor's family to pay. A minor's failure to pay a fine or fee may not serve as the basis for referring a case to the prosecutor if the minor has substantially complied with the other conditions of the adjustment.

## **Prosecutors**

Minors who are not offered nonjudicial adjustments, who decline them, or who fail to substantially comply with them will have their cases referred to the prosecutor for screening. Prosecutors can dismiss, file a petition, or refer the case back for a new attempt at nonjudicial adjustment. The standard for filing a petition is 1- probable cause, 2- admissible evidence will be sufficient to support a conviction beyond a reasonable doubt, and 3- charging is in the interests of justice. Prosecutors must submit a request for restitution at the time of disposition, if feasible, otherwise within 3 months after disposition.

## **Juvenile Courts**

Even if a prosecutor files a petition, the court may still refer the case to probation for another nonjudicial adjustment offer.

A juvenile court may not issue a warrant for a status offense or infraction except to direct the minor be returned home, to the court, or to a shelter or other non-secure facility. In determining restitution, the court must consider the victim's material loss, minor's ability to pay or acquire means to pay. When a court orders community service, the presumptive order is 5-10 hours.

*Treatment:* If a minor gets caught with alcohol, sneaking into a bar, or using a fake ID, the court can only order substance treatment or classes if there's an assessed need for intervention. For repeat offenses of the controlled substance and paraphernalia statutes, the court now retains discretion in whether to order screening, assessments, and classes. A juvenile court may not commit a minor with mental health problems to the state hospital, only to a local mental health authority.

*Detention:* A court can only order a minor be held in a facility if it finds that: releasing the minor to parents, guardian, or custodian presents an unreasonable risk to public safety; less restrictive nonresidential alternatives have been considered and attempted; and the minor is eligible for detention under JJS guidelines. A court shall only give JJS custody of a minor if nonresidential treatment options have been exhausted or are inappropriate and the minor was adjudicated for a felony, a misdemeanor with five priors or use of a dangerous weapon. A court may not give JJS custody of a minor for contempt, violating probation, failure to pay, unfinished service hours, an infraction, or a status offense. There is now a 72-hour cap on secure care for contempt

### **Juvenile Justice Services**

JJS is no longer responsible to provide programs and services for minors who have been placed in the custody of the division for reasons other than abuse or neglect (CCJJ is responsible for developing the program). JJS still makes rules for detaining youth in custody or temporary custody, but may not permit a minor be placed in secure detention based only on multiple status offenses, misdemeanors, or infractions in the same criminal episode. JJS rules establishing standards for admission to secure detention must prioritize home detention. “Community based program,” “observation and assessment program,” and “work program” are redefined to exclude residential programs. “Temporary custody” doesn’t include placement in a secure facility. JJS can no longer compel a minor to pay restitution that is not court ordered.

### **Secure Care & Parole**

For offenses where a minor is committed to secure care, a presumptive term of commitment is no longer than 3-6 months (the exceptions are murder, aggravated sexual assault, aggravated assault resulting in serious bodily injury, aggravated kidnapping, aggravated arson, aggravated burglary, aggravated robbery, felony discharge of a firearm, & any adult felony equivalent with use of a dangerous weapon). The Youth Parole Authority must release the minor to parole after the presumptive term unless release would interrupt necessary treatment or the minor commits a new misdemeanor or felony. Extensions to be reported to CCJJ annually.

Once released to parole, the presumptive term of parole supervision is no longer than 3-4 months (except the offenses listed above). The Youth Parole Authority must release the minor to parole after the presumptive term unless release would interrupt a necessary treatment program, the minor commits a new misdemeanor or felony, or service hours have not been completed. Any extension of parole must be reported to CCJJ annually.

AMENDS: §§17-18a-404; 32B-4-409 through 32B-4-411; 53A-1-403; 53A-3-402; 53A-11-101.7; 53A-11-103; 53A-11-105; 53A-11-403; 53A-11-901; 53A-11-908; 53A-11-910; 53A-11-1302; 53A-11-1604; 58-37-8; 58-37a-7; 58-37b-9; 62A-4a-105; 62A-4a-201; 62A-4a-202; 62A-4a-208; 62A-4a-250; 62A-7-101; 62A-7-104; 62A-7-107.5; 62A-7-109.5; 62A-7-201; 62A-7-202; 62A-7-404; 62A-7-501; 62A-7-504; 62A-7-506; 62A-7-601; 62A-7-701; 63I-2-262; 63M-7-204; 63M-



7-404; 76-5-413; 76-9-701; 76-10-105; 78A-6-103; 78A-6-105; 78A-6-109;  
78A-6-111 through 78A-6-113; 78A-6-115; 78A-6-117 through 78A-6-121; 78A-  
6-302; 78A-6-306; 78A-6-312; 78A-6-401; 78A-6-602 through 78A-6-604;  
78A-6-606; 78A-6-701; 78A-6-1101; 78A-6-1202; 78A-6-1203; 78A-6-1302;  
78A-7-106

ENACTS: §§53A-11-911; 62A-1-111.5; 63M-7-208; 78A-6-106.5; 78A-6-117.5; 78A-6-  
123; 78A-6-124

UCA SECTIONS AFFECTED BY REVISOR INSTRUCTIONS: §62A-1-111.5

## **COMMON AREA LAND USE AMENDMENTS**

[HB 243](#)

Rep. R. Curt Webb

This bill affects how common area on a plat is conveyed, owned, and modified. This bill prohibits a person, except when a community association holds the property in trust, from owning, conveying, or modifying common area. This bill establishes that local government approval and the approval of 67% of the ownership interests must be obtained before common area can be modified. This bill creates equal ownership in the common area among the parcels in the subdivision unless otherwise noted on the plat.

Local Governments should be aware that their approval is required before common area or facilities can be moved or the size altered.

AMENDS: 10-9a-604; 10-9a-606; 17-27a-604; 17-27a-606; 57-8-32

## **CAMPUS ADVOCATE CONFIDENTIALITY AMENDMENTS**

[HB 251](#)

Rep. Angela Romero

A bill directed at Utah's schools of higher learning. It directs that confidential communications which are given by a victim seeking victim advocate services are protected in most situations. Confidential communications include records that are created or maintained for the purpose of getting help for sexual harassment, sexual assault, rape, domestic violence, dating violence or stalking. Records are broadly defined and include letters, , books, paper, maps, photographs, recordings etc.

Release of documents can occur under GRAMA, consent, under law, or court orders.

AMENDS: 77-38-204

ENACTS: 53B-27-101; 53B-27-102; 53B-27-201; 53B-27-202

## **DISPOSAL OF FIREARMS**

[HB 252](#)

Rep. Brad M. Daw

The plan behind this bill is to establish a method of disposing of firearms which are confiscated or unclaimed by selling them through a federally licensed firearms dealer and donating the proceeds to the Fallen Officers Fund. The Department of Public Safety is to contract with a dealer and to make part of that contract the requirement that a certain amount of money will go to the dealer and the remainder is to be donated in behalf of the state to an organization which is a 501 (c)(3) tax exempt corporation which “primarily helps the families of law enforcement in the state who die in the line of duty” and “provides other assistance to children of active law enforcement officers including scholarships”.

The bill provides that local agencies with approval of their governing bodies may similarly contract with a dealer. The firearms may be destroyed if they are unfit for sale or associated with a notorious crime.

Confiscated firearms may also be transferred to the State Crime Lab for testing purposes.

Conforming amendments are made to sections dealing with property no longer needed as evidence and voluntary commitment of a firearm.

AMENDS: 24-3-102; 53-5c-201; 53-5c-202; enacts 24-3-103.5

EFFECTIVE DATE: January 1, 2018

## **SHORT-TERM RENTAL AMENDMENTS**

[HB 253](#)

Rep. John Knotwell

This bill allows individuals to list short-term rentals on the internet and denies local government the ability to prohibit or prosecute based solely on such internet listings.

Local government should review its ordinances and enforcement measure to ensure that their enforcement is based on more than mere listings.

ENACTS: 10-8-85.4; 17-50-338

## **INITIATIVE AMENDMENTS**

[HB 255](#)

Rep. D. McCay

If an initiative petition proposes a tax increase (like that will happen), the language of the circulating petition must provide specific and emphatic notice of that fact and include the percentage difference and the percentage increase. That information must be included in the notice of any public hearing, in the fiscal impact statement, in the voter information pamphlet, and in the ballot title.

AMENDS: 20A-7-101; 20A-7-202; 20A-7-202.5; 20A-7-203; 20A-7-204; 20A-7-204.1;  
20A-7-209; 20A-7-402; 20A-7-502; 20A-7-502.5; 20A-7-503; 20A-7-508; 20A-  
7-513; 20A-7-702

## **SAFETY INSPECTION AMENDMENTS**

[HB 265](#)

Rep Daniel McCay

This bill repeals the requirement that motor vehicles successfully complete a safety inspection prior to being registered. This bill does not change the requirement that street-legal all-terrain vehicles or salvage vehicles need a safety inspection prior to registering the vehicle for the first time, and does not change the requirement for commercial vehicles and taxi cabs must display a safety inspection certificate. Also, it is important to note that the legislature used this bill to remove the sunset provision that had existed regarding the primary offense for a seat belt violation. This sunset provision was set to make a seat belt violation only a secondary offense again in July of 2018. Now, the seat belt violation permanently remains a primary offense. This bill also increases the registration amount for some vehicles and places the extra money in a restricted account intended to enforce safety provisions on the roadways.

AMENDS: 13-51-107; 41-1a-203; 41-1a-205; 41-1a-217; 41-1a-226; 41-1a-1201; 41-1a-  
1206; 41-3-303; 41-6a-1508; 41-6a-1509; 41-6a-1642; 41-6a-1803; 41-6a-1805;  
53-8-205; 53-8-206

ENACTS: 53-8-214

## **HUMAN TRAFFICKING MODIFICATIONS**

[HB 274](#)

Rep. Angela Romero

This bill is quite complicated for a simple fix. Basically all the bill does is to allow a court to vacate a conviction for possession of a controlled substance, aiding prostitution, criminal trespass, theft, possession of forged writing or device for writing, retail theft, unlawful possession of another's identification document, lewdness, prostitution or sexual solicitation. The petitioner has to show by clear and convincing evidence that they committed the above crimes while subject to force, fraud or coercion. If vacature is granted by the court the record of the petitioner can then be expunged. There are requirements in the statute for the petitioner to follow to accomplish said expungement.

AMENDS: 76-5-308; 77-22-2.5; 77-38-15; 77-40-112; 78B-9-104; 78B-9-105; 78B-9-106;  
78B-9-107; 78B-9-108

ENACTS: 77-40-108.5

## **AGRICULTURE REGULATION PREEMPTION AMENDMENTS**

[HB 280](#)

Rep. Stephen G. Handy

This bill establishes state regulation of commercial feed, fertilizer, pesticides, and seeds and preempts local regulation. This bill does not limit local government from adopting and enforcing zoning regulations, fire and building codes, and garbage restrictions. It also allows local government to enforce regulations against pesticides and fertilizers as they affect surface water and groundwater protection. But the water protection regulations must be done in consultation with the Department of Agriculture and Food.

Local Government should review their practices to ensure that they are enforcing only on state regulations in these areas.

ENACTS: 4-2-16

## **ESSENTIAL TREATMENT AND INTERVENTION ACT**

[HB286](#)

Rep. LaVar Christensen

This bill enacts the Essential Treatment and Intervention Act. Under ETIA, a relative can petition a district court to order a drug addict to undergo essential treatment. The burden of proof is on the relative to show by clear and convincing evidence that the individual 1- suffers from a substance abuse disorder, 2- can reasonably benefit from the essential treatment, 3- is unlikely to substantially benefit from a less-restrictive alternative, and 4- presents a serious harm to self or others. An evaluation is conducted every 90 days while treating and an “essential treatment examiner” can hold a patient for up to 72 hours if the individual meets above criteria.

Evidence directly related to the adjudication of the petition and presented to the court in the interest of the respondent may not be construed or applied as an admission of guilt to a criminal offense, but the court may enforce any previously existing criminal warrant for respondent.

AMENDS: §§62A-15-602; 62A-15-641.

ENACTS: §§62A-15-1201; 62A-15-1202; 62A-15-1203; 62A-15-1204; 62A-15-1205; 62A-15-1206; 62A-15-1207; 62A-15-1208; 62A-15-1209.

## **MOUNTAINOUS PLANNING DISTRICT AMENDMENTS**

[HB 293](#)

Rep. Mike Schultz

Last year, the legislature allowed the mountainous planning district experiment to extend for one more year until June 1, 2017. The new bill gives the mountainous planning district a three-year reprieve, extending the sunset provision for the statutes governing the mountainous planning district until June 1, 2020.

In addition, the bill reinstates language in Section 10-9a-304 that was mistakenly allowed to sunset last year that was informally known as the Alta exception. It also directs that one member of the mountainous planning commission either reside or own property within the mountainous planning district. In effect, this change increases the number of board members who have a direct tie to property within the district from one to two. Finally, this bill changes the conditions that qualifies an area to be designated a part of the mountainous planning district. On top of the previously existing conditions, property must also be within the Wasatch Range and include land designated as part of a national forest.

AMENDS: 10-9a-304, 17-27a-301, 17-27a-901, 63I-2-210, 63I-2-217

## **DATA SECURITY MANAGEMENT**

[HB 319](#)

Rep. Robert M. Spendlove

This bill provides the State's Department of Technology Services ("TS") more power related to executive branch agency information security technology. It requires TS to assess each executive branch agency's information security technology on or before December 31, 2017; and requires TS to develop recommendations to address the results of the assessment and make recommendation to the Legislature on or before April 18, 2018.

ENACTS: 63F-1-901 and 63F-1-902

## **LOCAL BUDGET HEARING NOTICE AMENDMENTS**

[HB 324](#)

Rep. Bruce R. Cutler

Local government is required to post notice or a link to the notice on the home page of the website of the town or metro township, if it has a publicly viewable website. Notice is to be posted beginning at least seven days prior to the hearing and remain published until the hearing takes place.

This bill requires no action by local governments other than to disseminate the additional criteria to the appropriate staff.

AMENDS: 10-5-107, 10-5-108, 10-6-113, 17-36-12, 17-36-26

## **UTAH AGRICULTURE CODE AMENDMENTS**

[HB 344](#)

Rep. Lee Perry

This lengthy bill (349 pages 9768 lines) recodifies and modifies the Utah Agricultural Code, Title 4, including modifying some definitions, striking outdated language and making technical and conforming changes. In addition to existing rights, the bill further authorizes the Department of Agriculture and Food to:

1. Contract for services and accept and administer grants
2. Require labels on certain products
3. Make rules regarding “Utah’s Own”, a program dedicated to the promotion of locally produced agricultural products
4. Deny, revoke, or suspend a pesticide applicator license
5. Set a fee for the application of an industrial hemp certificate

The bill also modifies the duties of the state veterinarian and the membership of the State Weed Committee. It further authorizes the Agricultural Advisory Board to create a subcommittee and eliminates the license for a wax-salvage plant.

Bull owners who do not have them tested for trichomoniasis (a parasitic infection) may be fined \$1,000 per bull. People who own or possess an infected animal may be liable for the damage inflicted by the animal. Finally, the bill modifies the length of time a domesticated elf facility shall maintain its records.

AMENDS: 4-2-401, 4-2-402, 4-2-502, 4-2-503, 4-2-504, 4-12-4, 4-18-102, 4-18-104, 4-18-105, 4-18-106, 4-18-107, 4-18-108, 4-26-101, 4-26-102, 4-26-104, 4-31-105, 4-31-106, 4-31-107, 4-31-108, 4-31-109.1, 4-31-113, 4-31-114, 4-31-115, 4-31-116, 4-39-102, 4-39-104, 4-39-107, 4-39-108, 4-39-201, 4-39-202, 4-39-203, 4-39-205, 4-39-206, 4-39-207, 4-39-301, 4-39-304, 4-39-305, 4-39-306, 4-39-401, 4-39-402, 4-40-102, 4-41-103, 10-8-85.8, 11-38-302, 17-50-323, 17D-3-102, 23-13-19, 23-24-1, 26-15-1, 58-37c-19.5, 63A-3-205, 63B-1b-102, 63B-1b-202, 63E-1-102, 63I-4a-102, 63J-7-102, 63L-8-403, 72-7-401, 72-9-502, 73-20-2, 76-6-11, and 78B-4-202

ENACTS: 4-2-101, 4-3-101, 4-9-101, 4-18-201, 4-19-101, 4-20-102, 4-22-101, 4-25-101, 4-30-101, and 4-34-101

#### RENUMBERS

& AMENDS: 4-1-102, 4-1-102, 4-1-103, 4-1-104, 4-1-105, 4-1-106, 4-1-107, 4-1-108, 4-1-109, 4-1-110, 4-2-102, 4-2-103, 4-2-104, 4-2-105, 4-2-106, 4-2-107, 4-2-108, 4-2-109, 4-2-201, 4-2-202, 4-2-301, 4-2-302, 4-2-303, 4-2-304, 4-3-102, 4-3-201, 4-3-202, 4-3-203, 4-3-204, 4-3-205, 4-3-206, 4-3-301, 4-3-302, 4-3-401, 4-3-402, 4-3-403, 4-3-501, 4-3-502, 4-3-503, 4-4-101, 4-4-102, 4-4-103, 4-4-104, 4-4-105, 4-4-106, 4-5-101, 4-5-102, 4-5-103, 4-5-104, 4-5-105, 4-5-106, 4-5-201, 4-5-202, 4-5-203, 4-5-204, 4-5-205, 4-5-206, 4-5-207, 4-5-301, 4-5-401, 4-5-402, 4-5-501, 4-5-502, 4-7-101, 4-7-102, 4-7-103, 4-7-104, 4-7-105, 4-7-106, 4-7-107, 4-7-108, 4-7-109, 4-7-110, 4-7-102, 4-7-202, 4-7-203, 4-7-204, 4-7-205, 4-8-101, 4-8-102, 4-8-103, 4-8-104, 4-8-105, 4-8-106, 4-8-107, 4-9-102, 4-9-103, 4-9-104, 4-9-105, 4-9-106, 4-9-107, 4-9-108, 4-9-109, 4-9-110, 4-9-111, 4-9-112, 4-9-113, 4-9-114, 4-9-115, 4-9-116, 4-9-117, 4-9-118, 4-10-101, 4-10-102, 4-10-103, 4-10-104, 4-10-105, 4-10-106, 4-10-107, 4-10-108, 4-10-109, 4-10-111, 4-10-112, 4-10-113, 4-11-101, 4-11-102, 4-11-103, 4-11-104, 4-11-105, 4-11-106, 4-11-107, 4-11-108, 4-11-109, 4-11-110, 4-11-111, 4-11-112, 4-11-113, 4-11-114, 4-11-115, 4-13-102, 4-

13-103, 4-13-104, 4-13-105, 4-13-106, 4-13-107, 4-13-108, 4-13-109, 4-14-101, 4-14-102, 4-14-103, 4-14-105, 4-14-106, 4-14-107, 4-14-108, 4-14-109, 4-14-110, 4-14-111, 4-15-101, 4-15-102, 4-15-103, 4-15-104, 4-15-105, 4-15-106, 4-15-107, 4-15-108, 4-15-109, 4-15-110, 4-15-111, 4-15-112, 4-15-113, 4-15-114, 4-16-101, 4-16-102, 4-16-103, 4-16-201, 4-16-202, 4-16-203, 4-16-301, 4-16-302, 4-16-303, 4-16-401, 4-16-501, 4-17-101, 4-17-102, 4-17-103, 4-17-104, 4-17-105, 4-17-106, 4-17-107, 4-17-108, 4-17-109, 4-17-110, 4-17-111, 4-17-112, 4-17-113, 4-17-114, 4-17-115, 4-18-202, 4-19-102, 4-19-103, 4-19-104, 4-19-105, 4-20-101, 4-20-103, 4-20-104, 4-20-105, 4-20-106, 4-20-107, 4-20-108, 4-20-109, 4-22-102, 4-22-103, 4-22-104, 4-22-105, 4-22-106, 4-22-107, 4-22-108, 4-22-201, 4-22-202, 4-22-203, 4-22-301, 4-22-302, 4-22-303, 4-23-101, 4-23-102, 4-23-103, 4-23-104, 4-23-105, 4-23-106, 4-23-107, 4-23-108, 4-23-109, 4-23-110, 4-23-111, 4-24-101, 4-24-102, 4-24-103, 4-24-104, 4-24-105, 4-24-201, 4-24-202, 4-24-203, 4-24-204, 4-24-205, 4-24-301, 4-24-302, 4-24-303, 4-24-304, 4-24-305, 4-24-306, 4-24-307, 4-24-308, 4-24-309, 4-24-401, 4-24-402, 4-24-403, 4-24-404, 4-24-405, 4-24-406, 4-24-501, 4-24-502, 4-24-503, 4-24-504, 4-24-505, 4-24-506, 4-25-102, 4-25-103, 4-25-104, 4-25-201, 4-25-202, 4-25-203, 4-25-204, 4-25-205, 4-25-206, 4-25-301, 4-25-302, 4-25-303, 4-25-401, 4-30-102, 4-30-103, 4-30-104, 4-30-105, 4-30-106, 4-30-107, 4-30-108, 4-30-109, 4-30-110, 4-30-111, 4-30-112, 4-32-101, 4-32-102, 4-32-103, 4-32-104, 4-32-105, 4-32-106, 4-32-107, 4-32-108, 4-32-109, 4-32-110, 4-32-111, 4-32-112, 4-32-113, 4-32-114, 4-32-115, 4-32-116, 4-32-117, 4-32-118, 4-32-119, 4-32-120, 4-32-121, 4-32-122, 4-32-123, 4-33-101, 4-33-102, 4-33-103, 4-33-104, 4-33-105, 4-33-106, 4-33-107, 4-33-108, 4-33-109, 4-33-110, 4-34-102, 4-34-103, 4-34-104, 4-34-105, 4-34-106, 4-34-107, 4-35-101, 4-35-102, 4-35-103, 4-35-104, 4-35-105, 4-35-106, 4-35-107, 4-35-108, 4-35-109, 4-38-101, 4-38-102, 4-38-103, 4-38-104, 4-38-105, 4-38-106, 4-38-201, 4-38-202, 4-38-203, 4-38-301, 4-38-302, 4-38-303, 4-38-304, 4-38-401, 4-38-402, and 4-38-501

REPEALS: 4-11-15, 4-18-109, 4-25-10, 4-25-11, 4-31-117, 4-36-1, 4-36-2, 4-36-3, 4-36-4, 4-36-5, 4-36-6, and 4-36-7

SECTIONS AFFECTED BY COORDINATION CLAUSE: 4-2-16, 4-2-305, 4-5-9.5, 4-5-501, 4-10-9, and 4-10-110

EFFECTIVE DATE: July 1, 2017

## DIGITAL PIRACY AMENDMENTS

[HB 354](#)

Rep. Adam Gardiner

ARRRGGGHHH Matey this bill brings us into present times by adding to the statute the commercial equivalent of 100 or more recordings when. By doing this we keep it a felony

level. This was done because people don't use CD's or DVD's as much anymore. They now use storage devices like thumb drives and digital storage devices to name a couple.

AMMENDS: 13-10-8

## **UNIFIED COMMERCIAL DEVELOPMENT AMENDMENTS**

[HB 355](#)

Rep. Francis D. Gibson

This bill loosens the definition of a Unified Commercial Development and allows for a Unified Commercial Development to install a sign. In the past, Unified Commercial Developments were required to be in a county of the first class, include a hotel, and include a railway or public transit access. These provisions have been removed. This bill also allows the Development to install a sign advertising the businesses in the Development after obtaining approval from the local land use authority. The bill provides limits on where the sign may be located both in the development and its proximity to other signs.

Local land use authorities should be aware that by approving a Unified Commercial Development, they are also granting the development a permit waiver for an advertising sign.

AMENDS: 72-7-504; 72-47-50436; -72-7-508

## **CRIMINAL PENALTY ENHANCEMENT FOR SEXUAL OFFENSES**

[HB369](#)

Rep. Justin Fawson

This bill enhances the penalty for a conviction of a 76-5 Part 4 sexual offense that is not a first-degree felony when the defendant, at the time of the offense, knew he was infected with HIV, hepatitis B, or hepatitis C. The enhancement is one classification higher than a root offense.

NOTE: This bill presumes a prosecutor will be able to prove when a defendant knew about his or her HIV or hepatitis status. It also does not differentiate based on the ability of the defendant or of the acts constituting the root offense to transmit disease. For example, touching someone's buttocks may be forcible sexual abuse, but it will not transmit HIV or hepatitis. Also, a person undergoing treatment may achieve a persistently undetectable status, which prevents HIV transmission. Exercise discretion before enhancing offenses based on this bill.

ENACTS: §76-3-203.12



## CLASSIFICATION OF THEFT AMENDMENTS

[HB 379](#)

Rep. Brian S. King

Two different concepts are contained in this bill. The first - suggested by SWAP - is to remove the provision making it a 2<sup>nd</sup> degree felony to commit a theft while “armed with a dangerous weapon”. This rarely used provision was part of the criminal code adopted in 1973. Since that time there has been a drastic change in the legal carrying of dangerous weapons. It is now very common for citizens with a concealed weapons permit to carry a dangerous weapon. If one of such persons is charged with a misdemeanor shoplifting it is highly inappropriate for that person to be charged with a 2<sup>nd</sup> degree felony merely because of the possession of the weapon. This is only a consideration of course if the weapon is not displayed or otherwise used in the commission of the theft which would make it an aggravated robbery. Although this provision has been unused by prosecutors of the state, it was used by police in one anomalous case in Salt Lake County (quickly dismissed by the prosecutor) which brought our attention to the issue.

The second provision deals with enhancement of penalties for repeat theft offenders. The Sentencing Commission and the Board of Pardons and Parole in particular have been adamant that felony charges for repeat shoplifters of small amounts are inappropriate. There has been much controversy over this issue in the past few years.

The reason behind the controversy is not so much political philosophy as potentially varied impacts in different areas of the state.

In the urban areas repeat theft offenders are very often mentally ill and/or drug offenders who steal small amounts. Unfortunately, these offenders do not make great probationers and eventually may end up being sent to prison. Even if they are not sent to prison it is difficult for them to get out of their situation with a felony conviction.

The other side of this issue is the fact that increased penalties including a possibility of a felony conviction hanging over the head of a misdemeanor defendant can have - in the right circumstances - a deterrent effect. Having looked into this issue fairly recently CCJJ and SWAP determined that stepped penalties in this area do show a correlation (whether causal or not) with reduced recidivism. Unfortunately concern over the sheer number of defendants with mental health and/or addiction issues has carried the day.

Under this bill, a theft is a 3<sup>rd</sup> degree felony if “the value of the property or services is or exceeds \$500.00 and the actor has been twice before convicted...within 10 years...and at least one of those convictions is for a Class A Misdemeanor....”

We suggested that a \$250.00 limit would be more realistic with regard to homeless and mentally ill defendants but that suggestion was rejected.

AMENDS: 76-6-412

## **SEX OFFENDER REGISTRY AMENDMENTS**

[HB380](#)

Rep. Craig Hall

This bill requires a court to forward a signed copy of orders that modify, withdraw, set aside, vacate, or alter a conviction for kidnapping, child kidnapping, aggravated kidnapping, and aggravated human trafficking to the Sex and Kidnap Offender Registry Office within 3 business days. The Dept. of Corrections may intervene in any matter that affects a person who has lawfully entered their registration requirement. A court cannot enter an order to withdraw, modify, vacate, or set aside a plea unless it is in conformity with this chapter.

AMENDS: §§77-41-103; 78B-9-102

## **LAW ENFORCEMENT BODY CAMERA FOOTAGE AMENDMENTS**

[HB 381](#)

Rep. Paul Ray

This bill amends the process by which records requestors can receive footage from police body cams through GRAMA procedures. It provides for an expedited appeal to the District Court in cases where a records request is denied based on GRAMA sections 63G-2-305(10)(b) or (c) – the provisions classifying a record as ‘protected’ when release might interfere with enforcement proceedings or deprive a person of a fair trial. This would apply when a pending criminal case has been filed in court.

Practice pointers: Be aware that the new expedited appeal applies only if the underlying case has been filed in court. Other GRAMA appeal procedures apply before filing. Government agencies should provide information and training to law enforcement regarding the provisions of GRAMA and other state laws regarding access to body cam footage

AMENDS: 77-7a-107.

## **DRIVER LICENSE REVISIONS**

[HB 391](#)

Rep Tim Quinn

This bill simply removes the requirement that a person needed to have a taxicab endorsement on the person’s driver license to drive a taxicab in the state.

AMENDS: 53-3-102; 53-3-103

## VEHICLE TOWING AMENDMENTS

[HB 393](#)

Rep A. Cory Maloy

This bill requires tow truck companies to ensure that criminal background checks are conducted for all tow truck drivers and that all tow truck drivers obtain and maintain a valid medical examiner's certificate. The Department of Transportation will have the ability to revoke the certification of a tow truck motor carrier that employs individuals who do not comply with these requirements. It also places requirements on the tow truck operator for storage of towed vehicles until the owner or person with interest in vehicle pays the fees and removes the vehicle, or the vehicle is abandoned under the law. The bill also specifically prohibits cities and counties from enacting additional licensing requirements for tow truck operators or passing any local legislation that conflicts with this law. Finally, the bill creates a Towing Advisory Board to make recommendations for rules regarding towing.

AMENDS: 41-6a-1407; 72-9-601; 72-9-602; 72-9-603; 72-9-604

ENACTS: 72-9-606

## PROCUREMENT CODE AMENDMENTS

[HB 398](#)

Rep. Gage Froerer

Really good sleeping material provided in this bill. This bill has both criminal and civil elements. Civil first in that it modifies the stated purpose of the Procurement Code, modifies, definitions, modifies public notice requirements, sets out that a person seeking information on a public notice is responsible for such act, and it modifies who can be the chief procurement officer. This bill doesn't stop there in that it goes on to include modifications related to the bidding process. Clarifies terms of responsible and responsive, tells you what the best and final offer is, when you can extend contract, and other important stuff in the procurement process. If you do procurement you should read.

As for criminal violations it makes it a crime to harass, threaten, to prevent an officer from carrying out duties, try to influence, make false allegations, and interfere with a public officer or employee involved in the procurement process. Depending on the conduct it is a class A misdemeanor or third degree felony.

It also makes it a crime to divide procurement into smaller procurements including dividing an invoice or purchase order into multiple invoices or purchase orders to avoid a single larger procurement. The penalties are quite high. If you split a million and above it's a second degree felony, if it involves two hundred and fifty thousand to one million it is a third degree

felony, a class A misdemeanor if more than One hundred thousand but not more than two hundred and fifty thousand and under one hundred thousand would be a class B misdemeanor.

AMENDS: 63G-6a-102; 63G-6a-103; 63G-6a-112; 63G-6a-116; 63G-6a-302, 63G-6a-410; 63G-6a-506; 63G-6a-507; 63G-6a-602; 63G-6a-603; 63G-6a-606; 63G-6a-607; 63G-6a-608; 63G-6a-612; 63G-6a-702; 63G-6a-703; 63G-6a-707; 63G-6a-709; 63G-6a-802.7; 63G-6a-903; 63G-6a-904; 63G-6a-1002; 63G-6a-1003; 63G-6a-1204.5; 63G-6a-1402; 63G-6a-1403; 63G-6a-1601.5; 63G-6a-1602; 63G-6a-1603; 63G-6a-1702; 63G-6a-1703; 63G-6a-1802; 63G-6a-2403; 63G-6a-2407; 63G-10-403;

ENACTS: 63G-6a-1701.5; 63G-6a-2404.3; 63G-6a-2404.7

REPEALS AND REENACTS: 63G-6a-707.5

REPEALS: 63G-6a-1604

## **GOVERNMENTAL IMMUNITY AMENDMENTS**

[HB 399](#)

Rep. L. Snow

This bill does 5 things. First, it emphasizes the retention of immunity utilizing the phrase “arises out of or in connection with”. Second, it defines that phrase as requiring a) a “causal relationship between the conduct or condition and the injury; b) the causal relationship is more than any causal connection but less than proximate cause; and c) the causal relationship is sufficient to conclude that the injury originates with, flows from, or is incident to the conduct or condition.” (Back to torts class!!) Third, it expands the definition of “claimant”. Fourth, it provides for an extension of the filing of an action if a timely was dismissed for a reason other than on the merits. And fifth, it sets the required undertaking at \$300, unless otherwise ordered.

AMENDS: 63G-7-101; 63G-7-102; 63G-7-301; 63G-7-403; 63G-7-601

## **HYDROGEN FUEL PRODUCTION INCENTIVES**

[HB 405](#)

Rep. Douglas V. Sagers

HB 405 provides incentives for the production of hydrogen fuel. First, it expands the definition of a “Throughput infrastructure project” to include “a plant for producing hydrogen, including the liquification of hydrogen, for use as a fuel in zero emission motor vehicles” and “a plant for the production of zero emission hydrogen fueled trucks.” This will allow these types of plants to obtain grants and funds from the Throughput Infrastructure Fund. Second, it allows a taxpayer to claim a tax credit against a severance tax owing on natural gas if the taxpayer owns or operates a plant in the state that converts natural gas to hydrogen fuel and all the natural gas is

used in the state for the production of hydrogen fuel for use in zero emission motor vehicles. The tax credit is capped at \$5,000,000 per year.

AMENDS: 35A-8-302; 59-5-102.

## **SPECIAL FUND CEASES – TRANSFER**

[HB 429](#)

Rep. Lynn N. Hemingway

This bill directs counties, when the legislative body determines the purpose of a special fund no longer exists, to transfer the balance to the general fund. The legislative body may set aside the remaining balance or a portion of the remaining balance to support and benefit the area from which the county originally derived the special fund if: the county levied the fund primarily on property in the unincorporated county; the county established a municipal services fund to provide services; and the area levied has since incorporated as a city, town or metro township.

AMENDS: 17-36-29; 63G-7-704.

## **GOVERNMENT EMPLOYEES REIMBURSEMENT AMENDMENTS**

[HB 431](#)

Rep. Tim Quinn

This bill enacts a new Chapter 55 of Title 11, the “Personal Use Expenditures for Political Subdivision Officers and Employees.” It creates a comprehensive code prohibiting and setting penalties for employees of local government who use public money for personal gain. It defines “personal use expenditure” as the unauthorized spending of government funds for personal uses unrelated to a government activity. It excepts an automobile allowance or minimal personal use of a government vehicle, based on written policies. Personal expenditures in violation of the law must be repaid by the employee, which can include garnishing wages and an administrative fine of 50% of the amount misappropriated. The local government must establish an appeal process for employees accused of such misconduct. Any applicable criminal sanctions are not superseded. Similar prohibitions are enacted for employees of the state and higher education.

Practice pointers: Local governments should adopt written policies regarding minimal personal use of government vehicles; in addition, an appeal process must be enacted, which could be included in existing personnel policies or regulations. Government agencies should provide information and training to staff regarding the very strict limits the law places on the use of government funds for personal gain.

ENACTS: 11-55-101; 11-55-102; 11-55-103; 11-55-104; 53B-7-106; 63A-3-110.

## LOCAL DISTRICT BOARD APPOINTMENT AMENDMENTS

[HB432](#)

Rep. C. Webb

A county legislative body can appoint one of its own member to a local district board, even if that member doesn't reside in the district if the appointment processes are followed and no qualified candidate timely filed; and the appointed member was elected at large in the county or the member's division of the county covers more than 50% of the district, or if the district is divided into divisions, the member is elected from the county's division that covers more than 50% of the district's area. (Who said you'd never use that math after school?)

AMENDS 17B-1-302

## PENALTY FOR TARGETING LAW ENFORCEMENT OFFICER

[HB 433](#)

Rep. Paul Ray

While the concept was generally favorable, there were some serious drafting issues with this bill. The bill adds this new section:

### **76-5-210. Targeting a law enforcement officer defined.**

"Targeting a law enforcement officer" means the commission of any offense involving the unlawful use of force and violence against a law enforcement officer, causing serious bodily injury or death in furtherance of political or social objectives in order to intimidate or coerce a civilian population or to influence or affect the conduct of a government or a unit of government.

Obviously, the complicated elements of proving a social or political objective render the section virtually unusable. Additionally, the definition raises First Amendment issues which may not hold up to a challenge (in contrast to the careful wording of our proposed victim selection bills).

The list of aggravating factors in aggravated murder is expanded to include a murder committed while targeting a law enforcement officer. That is of course unnecessary as murder of a law enforcement officer is already a factor which is much easier to prove and not subject to the same challenges.

The bill also makes aggravated assault targeting a law enforcement officer a first-degree felony. That is problematic not only because of the near-impossible proof and First Amendment problems but because it is done in the aggravated assault section 76-5-103 while other assault against law enforcement officers is in 76-5-102.4 which contains a specific definition of "peace officer" which applies only to that section.

A replacement bill is to be considered later in the year possibly in a special session. Our suggestion to Representative Ray is that such a bill should make it a 1<sup>st</sup> degree felony to assault a law enforcement officer resulting in serious bodily injury. He is very receptive to that plan.

## **HEALTH CARE PATIENT PRIVACY AMENDMENTS**

[HB435](#)

Rep. Francis Gibson

This bill amends GRAMA to classify body-cam recordings inside a health care facility or human service program as protected. Exceptions are: recordings depicting a crime; an encounter between an officer and a person that results in death or bodily injury; an officer firing a weapon; encounters that are the subject of a complaint; an officer involved in a “critical incident;” and records requested for reclassification as public by a subject shown in the recording.

An officer may not activate a body-cam in facilities except during a law enforcement encounter. When reasonable under the circumstances, the officer should give notice by wearing the body-cam in a clearly visible manner or giving audible notice that the officer is using a body-cam.

NOTE: If a scenario is such that the officer should have activated the body-cam outside a health-care facility or human services program, the officer should also activate it inside the facility.

AMENDS: §§63G-2-305; 77-7a-102; 77-7a-104; 77-7a-105

## **HOUSING AND HOMELESS REFORM INITIATIVE AMENDMENTS**

[HB 441](#)

Rep. Francis D. Gibson

This bill (1) bars municipalities from adopting or enforcing ordinances that prohibit operation of a homeless shelter if it was in operation on or before January 1, 2016; or, prohibit the building of a homeless shelter if approved and funded through the Homeless Coordinating Committee. (2) It empowers the county executive of a county of the first class (under certain circumstances), the state, a nonprofit entity, and a mayor (with respect to its own municipality) to recommend, acquire, and hold title to real property of a facility that may be used to provide shelter or resources for the homeless. (3) It limits the identification of potential locations for a homeless facility to occurring on or before March 30, 2017. And, (4) makes appropriate funding. Governor Herbert signed this into effect on March 15, 2017.

This bill requires no action by local governments other than to disseminate the additional criteria to the appropriate staff.

AMENDS: 10-9A-526, 35a-8-604

## ALCOHOL AMENDMENTS

[HB 442](#)

Rep Brad Wilson

This is one of two bills, along with [SB 279](#), this legislative session overhauling alcohol policy in Utah. This bill is much too large to summarize effectively here, and most of it does not apply specifically to law enforcement and prosecutors. The bill amends 55 sections of the state code, enacts 17 new sections, and repeals 2 more sections. There is one thing to be aware of, however, regarding this bill. It is now an infraction for an off-premise beer retailer to display beer in more than 2 locations throughout the store, and not next to non-alcoholic beverage displays, except for where specific conditions are met. Look at this bill along with its companion, SB 279, but realize there is very little of it changing how we will do our jobs to enforce criminal provisions under the law.

## SENTENCING GUIDELINES AMENDMENTS

[HB 446](#)

Rep. Ken Ivory

Despite the short title of this bill it does not deal with the sentencing guidelines which are established by the Utah Sentencing Commission. Rather it requires the Board of Pardons and Parole to “develop and use a list of criteria for making determinations...” regarding parole, pardon, fines, commutation or termination of sentence.

The theory is to give some additional guidance to defendants and practitioners regarding Board action.

AMENDS: 77-27-5

## COMMUNITY REINVESTMENT AMENDMENTS

[HB 448](#)

Rep. Jeremy A. Peterson

The bill allows a community reinvestment agency (“Agency”) under Title 17C to amend a community reinvestment project area that is subject to an interlocal agreement for the purpose of acquiring property in the project area by eminent domain if the Agency: (a) adopts a survey area resolution identifying each parcel that the agency intends to study to determine whether blight exists; (b) conducts a blight study within the survey area and makes a blight determination; (c) creates a taxing entity whose sole purpose is to approve any finding of blight; and (d) obtains approval to amend the community reinvestment project area plan from each taxing entity that is a party to an interlocal agreement with the agency. Prior to the enactment of this bill, an Agency could not acquire property in a community reinvestment project area by eminent domain unless it adopted a project area plan providing for the use of eminent domain up front.

AMENDS: 17C-1-102, 17C-1-902, 17C-1-904, 17C-5-103, 17C-5-104, 17C-5-112, 17C-5-202, 17C-5-203, 17C-5-306, 17C-5-402, 17C-5-403.



## JAIL CONTRACTING AMENDMENTS

[HB 461](#)

Rep. Mike Noel

This bill changes the contractual reimbursement rate paid by the state to counties for housing prisoners in the county jail, but only for inmates admitted into a treatment program. The rate goes up from 86% of county costs to 89%.

AMENDS: 64-13e-103.

# SENATE BILLS

## EXPUNGEMENT AMENDMENTS

[SB 12](#)

Sen. Daniel Thatcher

This bill prevents the Bureau of Criminal Identification from counting pardoned convictions, infractions, traffic offenses, or minor regulatory offenses against expungement eligibility. Also, if at least 10 years have elapsed since the end of incarceration or probation and any new convictions, then the conviction limits on eligibility will be increased by one. This bill also clarifies that when a pardon has been granted, Board of Pardons and Parole employees cannot divulge any identifying information about the pardoned person. Disseminating this information is a class A misdemeanor.

This bill also amends 402 reductions by allowing a court to consider when the level of an offense has been reduced by law after a defendant has been convicted as a factor when the court is determining whether entering a judgment of conviction for the next lower degree of offense is in the interest of justice.

AMENDS: §§76-3-402; 77-27-5.1; 77-40-102; 77-40-105 through 77-40-109; 77-40-112.

## AGRICULTURE PROTECTION AREA AND INDUSTRIAL PROTECTION AREA AMENDMENTS

[SB 15](#)

Sen. Margaret Dayton

By changing “shall” to “may,” this bill amends the mandatory requirement (making it optional) that the applicable legislative body request recommendations from the planning commission and advisory board when reviewing an agriculture protection area or an industrial protection area.

AMENDS: 17-41-307

## SALES AND USE TAX EXEMPTION CHANGES

[SB 16](#)

Sen. Curtis S. Bramble

If you are in the car washing business, this bill might make you smile. It creates a sales and use tax exemption for sales of cleaning or washing of a vehicle. However, it does not apply to the cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle. (What, you won't vacuum out my truck...?!). The bill is effective July 1, 2017 and may reduce annual revenue to local governments by \$3,600 and annual revenues to the state General Fund by \$6,400.

AMENDS: 59-12-104

## **PHASED RETIREMENT AMENDMENTS**

[SB 20](#)

Sen. Daniel Hemmert

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending provision relating to phased retirement. Specifically, it modifies the application procedures for a phased retirement agreement and the provisions regarding the beginning and termination periods for phased retirement employment. The bill requires the submission of all required phase retirement forms prior to the retiree's retirement date. In addition, it requires that phased retirement employment shall begin no later than 120 days after the retirement date. Lastly, the bill provides that 100% of the retiree's retirement allowance shall be paid on the first day of the month after phased retirement has been irrevocably terminated.

AMENDS: 49-11-1301; 49-11-1303.

## **RETIREMENT SYSTEMS AMENDMENTS**

[SB 21](#)

Sen. Daniel Hemmert

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending retirement and insurance provisions. Specifically, it modifies an exception to the post-retirement reemployment restrictions by not applying the salary earning limitations of 49-11-1205(1)(a)(iii)(A) to a retiree reemployed as a judge. In addition, the bill shifts the responsibility for estimation of length of services, compensation or age of any employee (if that information is not contained in the records) from the executive director to the Utah State Retirement Office. In addition, it modifies the retiree notification and benefit conversion provisions related to death and divorce by replacing an "application" with "notification and supporting documentation." Lastly, the bill explicitly clarifies that the Public Employees' Benefit and Insurance Program may also be known and function as the Public Employees' Health Program (PEHP).

AMENDS: 49-11-602; 49-11-603; 49-11-1205; 49-11-1207; 49-12-402; 49-13-402; 49-20-103; 49-22-305; and 49-22-304.

## **HEAVY DUTY TAX CREDIT AMENDMENTS**

[SB 24](#)

Senator Daniel Hemmert

SB 24 broadens the scope of an income tax credit for natural gas heavy duty vehicles by including vehicles with hydrogen-electric and electric drivetrains.

AMENDS: 59-7-618 and 59-10-1033.  
EFFECTIVE: Retrospective to January 1, 2017.

## **MOTOR CARRIER AMENDMENTS**

[SB 25](#)

Sen Kevin Van Tassell

This bill amends the restriction on length for semi-trailers from 48 feet to 53 feet. It also allows for the driver to show electronic copy of an oversize permit, rather than requiring a paper copy and makes technical changes for the Department of Transportation on how they issue permits.

AMENDS: 72-2-103; 72-7-402; 72-7-406; 72-9-102; 72-9-103; 72-9-105; 72-9-201

REPEALS: 72-9-706

## **MOTOR VEHICLE ACCIDENT COST RECOVERY**

[SB 27](#)

Sen Wayne Harper

This bill allows government entities to charge not only the actual cost, but a reasonable estimate of the cost of services provided in responding to motor vehicle accidents, including medical costs for transporting and treating people and the repair of public property if the individual is legally liable for the damage. It also allows government entities to contract with third parties to recover these costs, and restricts what can be paid to the third party in recovering those costs.

AMENDS: 41-6a-409

## **PROTECTION OF LAW ENFORCEMENT OFFICERS' PERSONAL INFORMATION**

[SB 31](#)

Sen. Don Ipson

This bill prohibits individuals from posting personal information about law enforcement officers or their immediate family members on the internet while knowing the person is an officer or an immediate family member. Personal information includes phone numbers, addresses, email addresses, and personal photos. A violation is a class B misdemeanor, unless it results in bodily injury, in which case it's a class A.

The bill also prevents businesses, associations, and government agencies from posting personal information without authorization and exposes businesses and associations to civil liability for refusing to comply with a written demand to remove the information. Persons, businesses, and associations are also civilly liable for soliciting, selling, or trading personal

information of an officer on the internet if the party knows or should know that disseminating the information would pose an imminent and serious threat to the officer or immediate family.

Note: the civil liability subsection illustrates the intent of the criminal subsection, but the criminal offense does not include an element that the information pose an “imminent and serious threat.” Technically, an officer who posts a picture of her daughter, vehicle, or home on Facebook has committed a misdemeanor. Exercise discretion in investigating and prosecuting these offenses.

ENACTS: §§53-18-101 through 53-18-104

## **STATEWIDE CRISIS LINE**

[SB 37](#)

Sen. Daniel W. Thatcher

This bill creates a Mental Health Line Commission

AMENDS: 63I-1-263

ENACTS: 63C-18-101; 63C-18-102; 63C-18-201; 63C-18-202; 63C-18-203;

## **ROAD CLASSIFICATION AMENDMENTS**

[SB 39](#)

Sen. Wayne A. Harper

Before SB 39, the statute’s descriptors of state highways in rural and urban areas were “in addition to” the statute’s descriptors of state highways in general. This bill changed the “in addition to” language to clarify that the descriptors of state highways in rural and urban areas are “consistent with” the descriptors that apply to state highways in general.

AMENDS: 72-4-102.5

## **DUI IMPOUND FEE REFUND AMENDMENTS**

[SB 42](#)

Sen Wayne Harper

This bill amends the amount of time a person has to request a refund of the DUI impound fee if the Driver License Division decides to take no action on suspending or revoking a driver license under 53-3-223 or 41-6a-521 from 30 days to 180 days. These funds are used to fund DUI overtime shifts throughout the state and also to purchase equipment for agencies to enforce DUI laws.

AMENDS: 41-6a-1406

## **AUTOMOBILE INSURANCE REGISTRY AMENDMENTS**

[SB 50](#)

Sen Lincoln Fillmore

This bill amends when an officer shall seize and take possession of a vehicle being operated without operator's security, or insurance. Officers shall seize and take possession of the vehicle if a person is operating the vehicle without security and the vehicle was involved in an accident. The bill also makes technical changes to what is considered proof of insurance as an affirmative defense in court or in administrative actions relating to no insurance.

AMENDS: 41-1a-1101; 41-12a-303.2; 41-12a-501

## **RENTAL AMENDMENTS**

[SB 52](#)

Sen. Lincoln Fillmore

This bill provides that a court may award costs and reasonable fees to the prevailing party in certain civil actions regarding landlord-tenant issues. This bill is aimed at eviction proceedings or situations where renters claim that their residential rental unit is deficient.

This bill requires no action by local government.

AMENDS: 57-22-6; 78B-6-811

## **WORKERS' COMPENSATION RELATED PREMIUM ASSESSMENTS**

[SB 57](#)

Sen. Karen Mayne

This bill adjusts dates of time periods where income is received by the insurer from workers' compensation insurance for computation of remittance to the tax commission; and, makes other technical changes.

This bill requires no action by local governments other than to disseminate the additional criteria to the appropriate staff.

AMENDS: 59-9-101

## **ADMINISTRATIVE LAW JUDGE AMENDMENTS**

[SB 66](#)

Rep. Margaret Dayton

This bill allows an administrative law judge or the executive director of the Department of Environmental Quality to discuss ongoing operational matters that require the involvement of

a division director without violating the provision against ex parte communications during an adjudicative proceeding. If an administrative law judge or the executive director of the Department of Environmental Quality receives an ex parte communication, the judge or director shall place the communication in the public record of the proceeding so other parties may comment on the communication. Further, this bill adds that during a special adjudicative proceeding over a permit, ex parte communications by an administrative law judge or the executive director of the Department of Environmental Quality are not allowed, unless all parties to the proceeding are provided with notice and opportunity to be heard. The same exception for discussion of operational matters, and the same requirements relating to receipt of ex parte communications, apply to a special adjudicative proceeding. Further, this bill increases page limits for briefing on dispositive motions such that a responsive brief has the same limits as an opening brief (30 pages) and a surreply has the same limits as a reply (15 pages).

AMENDS: 19-1-301; 19-1-301.5

## **NOTIFICATION REQUIREMENTS FOR BALLOT PROPOSALS**

[SB 69](#)

Rep. Jacob L. Anderegg

This bill addresses notification requirements for a county or municipality that is subject to a ballot proposition and details the methods for mailing, sending or posting a notice. It states that the notice shall be given not less than 90 days before the date of the election at which a ballot proposition will be voted on, or as soon as practicable after the ballot proposition is approved to be voted upon in an election. The notice must contain the ballot title for the proposition, instructions on how to file a request with the election officer, and the deadline to file such a request. Further, this bill requires the Office of the Lieutenant Governor to send or post an electronic notice when an argument for or against a measure to be submitted to the voters by initiative petition has not been filed within the required time. It similarly requires the Office of the Lieutenant Governor to send or post an electronic notice when an argument for or against a measure submitted to the voters by the Legislature or by referendum petition has not been filed by a member of the Legislature within the required time.

AMENDS: 20A-7-402; 20A-7-704; 20A-7-705

## **ASSET FORFEITURE TRANSPARENCY AMENDMENTS**

[SB 70](#)

Sen. Howard Stephenson

This legislation adds law enforcement agency reporting requirements to asset forfeitures when “reasonably available.” The time for reporting is upon either the transfer of forfeited property to CCJJ on a state forfeiture, or when receiving any equitable share on a federal forfeiture.

The new data to report is:

1. Whether any criminal charges were filed, and if so, the final disposition of each charge.
2. The value of the property seized
3. For federal forfeitures, the money awarded to the agency;
4. The agency's direct costs, expense of reporting, and expenses obtaining and maintaining the seized property;
5. Legal costs and attorney fees paid to the prosecuting attorney.

Note: This information will not always be available to the law enforcement agency. The statute now only requires the reasonably available information be reported. The most significant change is that reports must now be submitted to CCJJ on all federal forfeitures where a law enforcement agency receives an equitable share.

AMENDS: §§24-4-115; 24-4-118

## **CRIMINAL ACCOUNTS RECEIVABLE AMENDMENTS**

[SB 71](#)

Sen. Daniel W. Thatcher

This bill essentially lays out how fines, court costs and restitution monies are turned over to the Office of State Debt Collections.

AMENDS: 63A-3-502; 76-3-201; 77-18-1; 77-18-6; 77-20-4; 77-38a-102; 77-38a 301; 7-38a-302; 77-38a-404; 77-38a-501; 78B-2-115

ENACTS: 77-32a-101; 77-32a-102; 77-32a-103; 77-32a-104; 77-32a-105; 77-32a-106; 78B-6-317

## **POST-CONVICTION DNA TESTING AMENDMENTS**

[SB 76](#)

Sen. Lyle W. Hillyard

This bill deals with DNA testing after a defendant is convicted and incarcerated. This bill adds to the statute that a defendant can get DNA testing when it is shown to a court that “there is a reasonable probability that the defendant would not have been convicted or would have received a lesser sentence if the evidence had been presented at the original trial”. It has other additions that deal with post-conviction procedures that no one needs to deal with unless they are dealing with the petition itself.

AMENDS 78B-9-301



## WASTE MANAGEMENT AMENDMENTS

[SB 79](#)

Sen. J. Stuart Adams

This bill defines the areas and structures adjacent to facilities storing radioactive waste as “unlicensed facilities,” and requires brokers of radioactive waste to provide financial assurance for the closure and post closure of such unlicensed facilities. The bill also further defines and clarifies regulation of licensed radioactive waste facilities, and makes technical changes.

AMENDS: 19-3-102, 19-3-104, 19-3-105

## LOCAL GOVERNMENT LICENSING AMENDMENTS

[SB 81](#)

Sen. J. Anderegg

This bill further demonstrates the love the legislature has for local government. It does 3 things. First, for both counties and cities, it removes the language in the statute that allowed local government to license for the purposes of revenue. Now licensing fees must be based on the costs of regulation.

Second, no more required licensing of lemonade stands (like we did anyway), or any other business that operates only “occasionally”, which is not defined, and operated by someone under the age of 18.

Finally, no licensing of home occupations “unless the combined offsite impact of the home based business and the primary residential use materially exceeds the offsite impact of the primary residential use alone.” Again, no definitions. Assuredly, a home office that has no clients or customers coming to the home, cannot be required to be licensed. On the other hand, dance studios, daycares, and others with significant visitors can be. Ah, the space between. Home salons with clientele and deliveries? How do you ensure a gunsmith/ammunition aficionado meets the fire regulations for storing gunpowder?

This is probably an area where UAC and ULCT should provide guidelines otherwise inconsistent interpretations will put this issue back on the Hill with less than predictable results.

AMENDS: 10-1-203; 17-53-216

## LIBRARY TECHNOLOGY USE AMENDMENTS

[SB 82](#)

Sen. Todd Weiler

This bill modifies provisions related to a public library’s required Internet safety policy to include wireless networks. In order to receive any State funds, a public library that provides a

public wireless network must ensure that it maintains and enforces a policy indicating that the provided wireless network properly filters child pornography, material harmful to minors, and obscene material.

AMENDS: 9-7-215

## **CIVIL ASSET FORFEITURE REVISIONS**

[SB87](#)

Sen. Daniel Thatcher

This bill requires that, in addition to the property receipt, a person whose property is seized shall be provided with information about the forfeiture process. It also creates an expedited process for claimants to retrieve seized property when it is valued under \$10,000. In those cases, if the claimant has filed an answer to a forfeiture complaint, an information for criminal conduct giving rise to the forfeiture must be filed within 60 days after service of the complaint was completed. If the prosecutor fails to file the information or if the information is dismissed and not refiled, the agency with the property must return it to the claimant.

For seizures of any value, if a prosecutor prevails on a civil asset forfeiture action and a claimant is subsequently criminally charged and then acquitted on the merits, then the property must be returned to the claimant.

There are also changes to the attorney fee cap for claimants. The original cap of 20% of the value of the seized property has been increased to 50%. Additionally, if a claimant contacts the seizing agency or prosecutor within 30 days of the seizure or before commencement of the asset forfeiture proceeding and provides evidence of ownership and a brief description of where and when the claimant mislaid or relinquished the property, the prosecutor has 30 days to provide a written response to that claim. If the prosecutor agrees with the claim or does not respond, the property is to be returned to the claimant without attorney fees. If the prosecutor denies the claim but a court later determines the claimant was an innocent owner, then there is no cap on attorney fees.

AMENDS: §§24-1-102; 24-2-103; 24-4-102; 24-4-104; 24-4-107; 24-4-110.

## **VEHICLE INSPECTION AND REGISTRATION AMENDMENTS**

[SB 90](#)

Sen Jacob Anderegg

This bill exempts people from being adjudicated guilty or paying fines or fees for certain infractions relating to vehicle registration and inspection requirements. Specifically, a person that receives a citation for expired registration, and the citation was issued within two months after expiration, and the person gets the vehicle registered within 14 days of the citation, is not guilty and not required to pay a fee or fine. Also, any person that receives a citation for certain equipment violations that provides proof of inspection or repair within 14 days is not guilty and will not be subject to fees or fines.

AMENDS: 41-1a-201; 41-1a-205; 41-6a-1601; 53-8-205; 53-8-209

## **PROPERTY ASSESSMENT NOTICE AMENDMENTS**

[SB 93](#)

Sen. Wayne A. Harper

This bill requires county treasurers to provide notice to property owners who have liens on their property due to past due municipal or local district fees. The notice should include four things: First, the amount owing. Second, contact information for the municipality or local district so the debtor can obtain information about the debt. Third, it should notify the owner that any unpaid amount will be included on property tax notice. Fourth, notify the property owner that the property has a lien against it. The notice shall be provided to the property owner on or before August 1 of each year. This bill takes effect on January 1, 2018.

Local government should insure that these notices are being disseminated.

AMENDS: 10-11-4; 17-24-1; 17B-1-902

## **LOCAL DISTRICT REVISIONS**

[SB 94](#)

Sen. Lincoln Fillmore

This bill affects Local Districts and Water Conservancy District procedures related to property taxes. It requires that local district board members who are appointed shall report to their legislative entity any property tax increases tentatively adopted. The board member shall make the report within 40 days of the district's request, at a public meeting, the report needs to be a separate agenda item, and the public need to be allowed to comment on the proposed

increase. The local district may approve the property tax increase only after the conditions of the report have been satisfied.

The report needs to include four things. First, a statement that the district intends to levy a property tax that exceed the certified tax rate. Second, the report should state the dollar amount and purpose for the tax increase. Third, the approximate percentage increase in ad valorem tax revenue for the district. Fourth, any other information requested by the legislative entity.

Local Governments who appoint members to the boards of Water Conservancy and Local Districts should make sure that these procedures are followed to insure the tax increases they levy are valid.

This bill takes effect on January 1, 2018.

AMENDS: 17B-1-1001; 17B-2a-1009

ENACTS: 17B-1-1003

## **UNSECURED LOAD AMENDMENTS**

[SB 96](#)

Rep Wayne Harper

This bill gives a statutory definition to “unsecured load” and provides penalties for situations arising from unsecured loads. If the unsecured load creates a hazard, but does not cause a traffic accident, the offense is an infraction. If the violation creates a hazard that leads to an accident, the violation is a class B misdemeanor. If the violation creates a hazard that leads to an accident that results in serious bodily injury or death, the violation is a class A misdemeanor.

AMENDS: 72-7-409; 78A-5-110; 78A-7-120

## **PUBLIC MEETING MINUTES AMENDMENTS**

[SB 97](#)

Sen. Kevin T. Van Tassell

This bill modifies a provision of the Open and Public Meetings act relating to minutes of open meetings. Public bodies have been required to keep written minutes of open meetings. Some requirements that the written minutes must include are: the substance of matters proposed, discussed, or decided and the substance of testimony of comments.

Now, a public body may choose to fulfill the above referenced requirements by maintaining a publicly available online version of the minutes that provides a link to the meeting recording at the place in the recording where the matter is proposed, discussed, or decided or the testimony or comments are provided. If a public body elects to fulfill the above referenced requirements in this manner, that body must also post the approved minutes and the public materials on the same website.

AMENDS: 52-4-203

## EXCESS DAMAGES CLAIMS

[SB 98](#)

Sen. Jani Iwamoto

This bill makes changes to the Utah Governmental Immunity Act by establishing a new method of raising the caps. Under prior law, the UGIA caps would be increased by an inflator determined by the consumer price index. The amendment changes that process by reducing the calculation based on the general CPI and increasing the calculation by including emphasis on the “medical care and services component” of the CPI – as this component rises more steeply than the CPI, the caps will likewise increase faster. After much consideration and debate, the Legislature put off, for another day, changes in the way the Board of Examiners (BofE) considers excess claims.

**Practice Pointers:** Amending the UGIA is a perpetual agenda item for the Legislature and the possibility of increasing or even eliminating the caps will be back, perhaps as soon as 2017 interims. Likewise, changes to the BofE process will also probably return. This bill was very hard-fought by local government representatives and risk managers; government practitioners would do well to study the trends and be aware of the potential downside – especially to local governments

AMENDS: 63G-7-604; 63G-9-304.

ENACTS: 63G-7-605.

## LABOR COMMISSION ENFORCEMENT AMENDMENTS

[SB 104](#)

Sen. D. Gregg Buxton

Minor change in these provisions, primarily this bill provides that a district court may renew, as a judgment of the district court, certain final administrative orders related to wage claims and workers' compensation.

This bill requires no action by local governments other than to disseminate the additional criteria to the appropriate staff.

AMENDS: 34-28-9, 34a-2-212, 34a-6-307

## MANNED AIRCRAFT AMENDMENTS

[SB111](#)

Sen. Wayne Harper

This bill further restricts the use of certain unmanned aircraft and surveillance systems. First, state law preempts any local law or ordinance passed by a political subdivision regarding the use of unmanned aircraft. It is also a class B misdemeanor if a person flies an unmanned aircraft that carries a weapon unless the person obtains authorization from the FAA and obtains a contract with the federal or state government to operate the aircraft.

A person that operates an unmanned aircraft for recreational purposes that fails to operate it properly under the bill's limitations for the safe operation of an unmanned aircraft shall, at first, receive a warning by law enforcement officers. A subsequent violation becomes an infraction. The third, and any following violation, shall be a class B misdemeanor if the person is successfully convicted of an earlier infraction or misdemeanor.

The bill also expands the definition of criminal trespass to include unmanned aircraft that enter or unlawfully remain on or over private property. It restricts their use if a person intends to annoy or injure another person or damage property, is reckless in whether the presence of the aircraft causes fear for safety of another, or intends to commit a crime. It is also unlawful to use an unarmed aircraft if the person knowingly enters or remains on or over property in which the person flying the aircraft is given notice through signage, personal communication, or fencing. For the above-mentioned trespass violations, it is a class B misdemeanor, unless the violation occurred inside a dwelling, in which case it is a class A misdemeanor. It is an affirmative defense to the prosecution that the property was open to the public and the actor complied with all lawful conditions regarding the access of the property.

AMENDS: §§72-10-109; 72-10-206; 72-10-402 and 72-10-702.7  
ENACTS: §§72-14-103; 72-14-104; 72-14-201; 72-14-202; 72-14-205; 72-14-301; 72-14-302; 72-14-303; 72-14-401; 72-14-402 and 72-14-403

## **POLLING LOCATION AMENDMENTS**

[SB 116](#)

Sen. Daniel W. Thatcher

Previously, Utah Code Ann. § 20A-5-403 provided for election officers to designate polling places for each precinct with the approval of a county or municipal legislative body or local district government board. The election officer was also to provide election equipment and ballot box and, report any issues with disabled persons having access to the ballot box. The county clerk is required to provide a ballot box, inspect polling places for disabled access, and remedy access problems. Based on reports that there were lines requiring wait times at polling places during the 2016 election, notwithstanding early voting locations and efforts to support vote by mail, SB116 requires county clerks “to the extent possible,” to ensure that the wait time in line for the polls does not exceed 30 minutes. If an individual waits in line longer than 30 minutes, the lieutenant governor may require a county clerk to submit a line management plan before the next election for review. The 30-minute requirement applies only to county clerks, not municipal election officers.

AMENDS: § 20A-5-403

## **CRIMINAL LAW AMENDMENTS**

[SB 118](#)

Sen. Daniel Thatcher

This bill amends four criminal offenses: computer crimes, making a false alarm, electronic communication harassment, and emergency reporting.

Computer crimes includes all unauthorized computer technology access that results in alteration, damage, destruction, copying, transmission, discovery or disclosure of computer technology (a computer or computer network, hardware, system, program, services, software, or data). Penalties range from a class B to a second-degree felony depending on loss to the victim or benefit obtained.

Making a false alarm now includes a third-degree felony if 1- the person makes the false alarm alleging an ongoing event or imminent threat, and 2- the false alarm causes or threatens bodily harm, serious bodily injury, or death to another.

Electronic communication harassment now includes the act of electronically publishing personal identifying information of another in a public site or forum without that person's permission. The intent language was also amended to remove "annoy," "alarm," and "offend." So, a defendant now must have intent to either intimidate, abuse, threaten, harass, frighten, or disrupt the electronic communications of another.

Emergency reporting was amended to add making a false report that identifies a specific location and claims an ongoing emergency involving serious bodily injury, death, or an imminent threat thereof. This false report is a third-degree felony unless emergency responders injure someone at the location, in which case it is a second.

AMENDS: §§76-6-702; 76-6-703; 76-6-705; 76-9-105; 76-9-201; 76-9-202.

## **SALES AND USE TAX CHANGES**

[SB 119](#)

Sen. Wayne A. Harper

The streamlined sales tax (SST) is a national effort by state and local governments and the private sector to simplify and modernize sales and use tax collection and administration. This effort produced the "Streamlined Sales and Use Tax Agreement" which was adopted by Utah on November 12, 2002. Senator Harper's bill adds the county option sales and use tax for highways and public transit (Section 59-12-2219) to the definition of "agreement sales and use tax" making it a streamlined sales tax. The bill also incorporates the defined terms "purchase price" and "sales price" into the various sections that authorize imposition of a sales and use tax.

AMENDS: 59-12-102; 59-12-103; 59-12-401; 59-12-402; 59-12-402.1; 59-12-703; 59-12-802; 59-12-804; 59-12-1302; 59-12-1402; 59-12-2003; 59-12-2103; 59-12-2204

## **WORKERS' COMPENSATION DEPENDENT BENEFITS**

[SB 120](#)

Sen. Karen Mayne

The calculation of death benefits paid to dependents of a deceased employee is modified to include a small increase.

This bill requires no action by local governments other than to disseminate the additional criteria to the appropriate staff.

AMENDS: 34a-2-702



## **POLL LOCATION CHANGE NOTIFICATIONS**

[SB 128](#)

Sen. Jani Iwamoto

Bond elections require the specific resolutions and notices set out in Utah Code Ann. § 11-14-202, including notification of the location of polling places. After notification about a limited number of polling places for a bond election during the 2016 election, there were concerns that additional polling places might be necessary. At that point, however, there was no ability under the statute to add polling places for the bond election and, thus, for the rest of the general election either. SB128 remedies that problem across a wide range of election notification and voter information pamphlet statutes by allowing election officers to change or add polling places after the initial notice is sent out. The notice provisions for bond elections, general elections, early voting, and election day polling locations now require that the election notice state that polling locations will be listed on the Statewide Electronic Voter Information Website (SEVIW) and, if available, the election officer's website, and include a phone number that voters may call concerning the polling place locations. If the polling locations change or new ones are added, the election officer must give notice of the changes to the lieutenant governor for posting on the SEVIW and post the changes on the election officer's website, if any. The election officer must also post physical notices at the former polling location and the new polling location, or when a polling location has simply been added, at the new location.

AMENDS: §§ 11-14-202, 20A-3-603, 20A-3-604, 20A-3-703, 20A-5-101 & 20A-7-702

Coordination Clause if HB 218 and SB 150 also pass, which they did, for: §§ 11-14-202, 20A-3-603, 20A-3-604, 20A-3-703, 20A-5-101 & 20A-7-702

## **TAX PROVISION AMENDMENTS**

[SB 132](#)

Sen. Curtis S. Bramble

SB 132 makes changes in two different tax areas: the corporate income tax area and the sales tax area. In the corporate income tax area, the bill addresses apportionment of corporate income. There are different ways corporate taxpayers must apportion their business income to Utah based on what type of taxpayer they are. Two types of taxpayers addressed by the bill are "sales factor weighted taxpayers" and "optional sales factor weighted taxpayers." Each of these types use different apportionment methods. Whether a taxpayer is a "sales factor weighted taxpayer" versus an "optional sales factor weighted taxpayer" is based primarily on where they fall in the NAICS (North American Industry Classification System) Code put out by the Executive Office of the President, Office of Management Budget. SB 132 adds automobile manufacturing from the NAICS code that qualifies a taxpayer to be a "sales factor weighted

taxpayer.” It also addresses how a taxpayer determines if it is an “optional sales factor weighted taxpayer.” These changes do not become effective for a taxable year until on or after January 1, 2018.

The second change is in the sales tax exemption area. SB 132 exempts from sales tax amounts paid by a manufacturing facility for purchase or lease of certain automobile manufacturing equipment and industrial gas manufacturing equipment that is used to manufacture items sold as tangible personal property. The bill also requires that a purchaser who receives one of these exemptions must file a report to the Governor’s Office of Economic Development showing the amounts they paid for sales tax and the amounts they would have paid absent the new exemptions. That information will then be given to the Revenue and Taxation Interim Committee who will review the cost of the new exemptions, the purpose and effectiveness of the exemptions, and the extent to which the state benefits from the exemptions. The Committee will then make recommendations concerning whether the exemptions should be continued, modified, or repealed. The exemptions go into effect on July 1, 2017.

AMENDS: 59-7-302; 59-12-104; 59-12-104.5.

ENACTS: 59-12-104.7; 63N-1-302.

## **INDIGENT DEFENSE COMMISSION AMENDMENTS**

### **[SB 134](#)**

Senator Todd Weiler

As the Indigent Defense Commission was established only last year additions are inevitable. The most important part of this bill is to add to the Commission “one attorney practicing in the area of juvenile delinquency defense” and “one attorney practicing in the area of parental defense”.

The scope of the Commission is expanded from indigent criminal defense to include child welfare parental defense and juvenile delinquency defense.

Also included is a restriction which says, “a person who is currently employed solely as a criminal prosecuting attorney may not serve as a member of the Commission.” This is not a slam against prosecutors as it is consistent with our original position that this Commission should be run primarily by defense attorneys. The word “solely” is intended to allow an attorney to represent local government who is employed in a county attorney’s office. The Commission is also given rule making authority. The bill addresses several budget and administrative issues.

AMENDS: 77-32-801 through 77-32-809

## STATE AUDITOR FISCAL AUDITING AND REPORTING AMENDMENTS

[SB 137](#)

Sen. Curtis Bramble

This bill modifies provisions related to fiscal reporting requirements to the state auditor and auditing duties of the state auditor.

AMENDS: 17B-1-641; 51-2a-201; 51-2a-201.5; 63G-2-502; 67-3-1; 67-4-1

## METRO TOWNSHIP AMENDMENTS

[SB 138](#)

Sen. Karen Mayne

This bill is intended to “clean up” some of issues that were identified after last year’s bill affecting metro townships was enacted. The bill removes a limitation that prohibited a metro township council’s from adopting an ordinance or resolution that governed the provision of municipal services. It changes the fiscal year of metro townships to align with the calendar year. It provides that the county clerk, fulfilling the duties of a recorder, may choose not to attend a metro township’s open meetings but must ensure that a recording is made and that written minutes are prepared.

Importantly, the bill also clarifies when and how local sales and use taxes are remitted to the municipal services district. It provides that the State Tax Commission must treat metro townships like cities and must calculate distribution amounts to metro townships the same way that it does for cities. It also specifies how transportation funds for class B and class C road miles are remitted to the municipal services district.

Finally, the bill modifies the term “specified local public body” in the Open and Public Meetings act so that the definition also encompasses metro townships. A definition of the term “municipality” is also added into the definition section for the Emergency Management Act (Utah Code Section 53-2a-102).

The bill’s modifications to Sections 17B-2a-1108 and 59-12-203 are effective retrospectively for the current taxable year to January 1, 2017.

AMENDS: 10-3b-504, 10-3c-202, 10-3c-203, 17B-2a-1108, 52-4-203, 53-2a-102, 59-12-203

## **ANNEXATION OF ISLANDS WITHIN CITIES**

[SB 140](#)

Sen. G. Buxton

As growth continues, the coordinated providing of services increases in importance. This bill provides for a procedure enabling counties and cities to cooperate in the annexing of unincorporated islands into cities. If after public hearings by the county, a municipality need not take any protestations into account if the county makes a recommendation for annexation based on findings that the area can be more efficiently serviced by the city; the area apparently will naturally be annexed into the city with continued growth; overlapping functions of local government can be consolidated; and the distribution of community sources and obligations will be more equitable. In making that determination the county may consider existing development, natural or other conditions that impact future development, and other relevant factors.

AMENDS: 10-2-402; 10-2-418; 10-2a-402

## **LOCAL DISTRICT BOARD AMENDMENTS**

[SB 143](#)

Sen. Jerry W. Stevenson

This bill changes the number of voters required to approve certain taxes from those “at” an election to a majority of those “who vote in” the election. It clarifies some requirements to sit on a local district’s board of trustees and clarifies the procedures for appointment in the case of a board vacancy.

Local Governments who interact with local districts should be aware of the new procedure to appoint those to the board. They should also be aware of the new voter requirements.

AMENDS: 17B-1-203; 17B-1-208; 17B-1-302; 17B-1-303; 17B-1-304; 17B-1-1001; 17B-2a-404; 17B-2a-405; 17B-2a-604; 17B-2a-608; 17B-2a-704; 17B-2a-905; 17B-2a-1009

## **LOCAL GOVERNMENTAL BOND AMENDMENTS**

[SB 150](#)

Sen. Deidre M Henderson

This bill amends provisions regarding required information related to a proposed bond. It clarifies that the voter information packet, if required, must contain the property tax cost of the proposed bond without regard to the taxes currently levied or outstanding bonds that will reduce

over time. It further provides that the Notice of Election shall list the location of each polling place or the address of a website listing the location of each polling place. If election officer determines that the number of voting/polling places is insufficient due to the number of registered voters who are voting, the election officer may designate additional voting/polling places during the voting period. If an additional early voting polling place is designated, the election officer shall, as soon as is reasonably possible, give notice of the dates, times, and location of the additional polling place in accordance with Subsection 20A-3-603. If an additional election day voting center is designated, the election officer shall, as soon as reasonably possible, give notice of the dates, times, and location of the additional voting center in accordance with Subsection 20A-3-703.

AMENDS: 11-14-202; 11-14-206

## **MUNICIPAL MAYORAL TERM AMENDMENTS**

[SB 152](#)

Sen. J. Iwamoto

This bill does 2 things – it first fixes a problem unique to Salt Lake County. Whatever city incorporated in 2016, the initial term of office for that mayor is 3 years, and each subsequent term is for 4 years. Secondly, it designates the years in which the mayor will stand for elections in cities with five and six member councils. In the year following a presidential election, approximately half the council and the mayor should be up for election, and the year preceding a presidential election, the other half of the council. Unless the mayor was elected in 2015, and then it is that year. In other words, an exercise of mental gymnastics with the same outcome.

AMENDS: 10-2a-410; 10-3-205

## **LOCAL PUBLIC SAFETY AND FIREFIGHTER SURVIVING SPOUSE TRUST FUND AMENDMENTS**

[SB156](#)

Sen. ToddWeiler

This bill decreases the mandatory duration of health coverage for surviving spouses and children of public safety line-of-duty deaths. It also requires participation in the trust fund by state and local government agencies that employs at least one public safety or firefighter employee eligible to earn service credit in a Utah Retirement System. This bill also now permits the Department of Public Safety to contract with a third-party administrator to administer the fund and account for the receipt and expenditure of trust fund money.

AMENDS: §§53-17-201; 53-17-301; 53-17-401.

## PROPERTY TAX NOTICE AMENDMENTS

[SB 157](#)

Sen. Curtis S. Bramble

SB 157 provides a specific methodology for the Utah State Tax Commission to value aircraft for purposes of property tax assessments. The bill mandates that the Commission use the Airliner Price Guide (“APG”) to determine the fair market value of aircraft unless (1) the Commission determines, after consulting with the airlines, that another aircraft pricing guide more reasonably reflects the value of the aircraft; (2) an aircraft is not listed in the APG, which then the Commission must use the Aircraft Bluebook Price Digest; and/or (3) the Aircraft Bluebook Price Digest is no longer published or the Commission determines that an alternative aircraft pricing guide more reasonably reflects the value of the aircrafts. The bill also requires a fleet adjustment to be made by reducing the aircraft pricing guide’s value of each aircraft by .5% for each aircraft over three aircraft up to a maximum 20% reduction. Finally, the bill allows the Commission to use an alternative method to value aircraft only if the Commission has clear and convincing evidence that the aircraft pricing guide does not reach fair market value for the aircraft and the Commission cannot identify an alternative aircraft pricing guide to determine value. The bill has retrospective operation to January 1, 2017.

SB 157 is likely unconstitutional. The Utah Constitution, art. XIII, § 2 requires that all tangible property be assessed and taxed at a uniform and equal rate in proportion to its fair market value unless specifically exempted under the constitution. This ensures that all taxpayers equitably share in the tax burden. SB 157 adopts a methodology that likely does not arrive at fair market value by using a liquidation value and values the aircraft at something other than their highest and best use, which is as part of on-going operating airline. It also requires a clear and convincing evidence standard before one can use a more appropriate methodology to reach fair market value whereas the Commission uses a preponderance of the evidence standard in determining appropriate methodologies for all other assessments. In addition, the bill essentially shifts assessing authority from the Commission to a private company in violation of Utah Constitution, art. § 6. For these and other reasons, in addition to considering a direct constitutional challenge to the statute, it should be argued that the statute should be applied as narrowly as possible and that the Commission should give full consideration to other methodologies that more appropriately arrive at fair market value such as the income approach in order to avoid an unconstitutional result.

AMENDS: 59-2-201.

## HELMET REQUIREMENT AMENDMENTS

[SB 159](#)

Sen Brian Shiozawa

Previously, any person operating or riding a motorcycle while under the age of 18 was required to wear a helmet. This bill simply increases that minimum age requirement to 21.

AMENDS: 41-6a-1505

## BULLYING AND HAZING AMENDMENTS

[SB161](#)

Sen. Luz Escamilla

This bill changes the definition of bullying and hazing to include both students and school employees, as well as enumerating specific activities that constitute bullying. Activities that places stress on mental health are also incorporated into the bullying and hazing definitions.

The bill also requires that school boards update their policies regarding bullying and hazing to incorporate hazing, cyber-bullying, and retaliation. Additionally, the State Board of Education is required to create rules regarding the training of employees in bullying, hazing, and cyber-bullying.

AMENDS: §§53A-11a-102; 53A-11a-201; 53A-11a-202; 53A-11a-203; 53A-11a-301; 53A-11a-302; 53A-11a-401 and 53A-11a-402

## BAIL AMENDMENTS

[SB 167](#)

Senator J. Stuart Adams

Although it only adds one line, this bill has significant impact. It amends 77-20-1 Right to Bail Subsection (3) to provide “any person who may be admitted to bail may be released [~~either~~] by written undertaking or an equal amount of cash bail, or...”

Clearly favoring the bail bond industry, this requires cash bail to be set at the same amount as a written undertaking. This eliminates the practice found successful in Utah County and elsewhere of setting the cash bail at the same level as the premium for a bond.

The cash bail system has proven effective because at the end of the proceeding if the person has made his court dates he can receive his cash back rather than having spent it on a premium.

What is not particularly clear from the bill is whether the court can simply order cash only bail.

AMENDS: 77-20-1

## **JUDICIARY AMENDMENTS**

[SB 169](#)

Sen. Lyle Hillyard

This bill makes changes to the Judicial Code regarding appointment of justice court judges and processing jury panels and makes other minor and technical changes. If there is a vacancy in a municipal justice court, the municipality must fill the vacancy, but can contract with a neighboring justice court to provide services until the vacancy is filled – notice to the Court Administrator’s office is required within 30 days. The bill changes the appeal process from justice court to district court by providing that a remand to justice court is not mandatory if the appeal was de novo and the parties and district court agree to retain jurisdiction. The bill makes other housekeeping and technical changes regarding juries, wills, and the Online Court Assistance Program.

AMENDS: 20A-1-506; 75-2-902; 77-10a-5; 78A-2-501; 78A-2-502; 78A-7-118; 78A-8-106; 78B-1-102; 78B-1-106; 78B-1-107; 78B-1-110.

REPEALS: 75-2-901.

## **HIGH PRIORITY TRANSPORTATION CORRIDORS**

[SB 181](#)

Sen. Wayne A. Harper

Senate Bill 181 clarifies the responsibilities of counties and municipalities when an application for land use in a high priority transportation corridor is filed with the jurisdiction. Currently, these entities apply the law inconsistently. This bill clarifies that municipalities and counties must notify UDOT of land use applications within the high priority corridors when so requested by UDOT and the proposed development might adversely impact the development of the corridor. The bill also clarifies that a county or municipality must notify a canal company when subdivision includes land located with a “notification zone,” as defined in the bill, and gives the canal company 20 days from notification to provide input on the application.

AMENDS: 10-9a-206; 10-9a-211; 10-9a-509; 10-9a-603; 17-27a-206; 17-27a-211; 17-27a-508; 17-27a-603



## OIL AND GAS AMENDMENTS

### [SB 191](#)

Sen. Ralph Okerlund

In response to issues that were argued before the Board, The Utah Division of Oil, Gas & Mining Board requested the amendments found in this bill. SB 191 allows the Board to make an oil and gas pooling order retroactive to the date of first production of an existing well located within a drilling unit, even if the retroactive date predates the Board's order establishing the unit. These orders will be binding on owners who receive proper notice. The bill also increases the range of the potential share of the production of a well in a pooling order. Finally, the bill modifies slightly the consenting owner and non-consenting owner's definitions to allow for inclusions of the time frame and manner as established by the board.

AMENDS: 40-6-2; 40-6-6; 40-6-6.5

## GOVERNMENT TRANSPARENCY REVISIONS

### [SB 195](#)

Sen. Deidre Henderson

This bill mandates that certain independent and quasi-independent government entities are subject to the reporting requirements of the Utah Public Finance Website. These include housing authorities and government entities which use the Interlocal Cooperation Act to enter into joint and cooperative action or for creating projects, programs or undertakings.

Practice pointer: Local government practitioners need to learn how to use the public finance website and make sure that interlocal projects covered by this bill post the appropriate notices on that site.

AMENDS: 4-22-4.5; 53D-1-103; 63A-3-401; 63E-2-109; 63H-4-108; 63H-5-108; 63H-6-103; 63H-7a-803; 63H-8-204.

## REFINERY SALES AND USE TAX EXEMPTION AMENDMENTS

### [SB 197](#)

Senator Stuart J. Adams

SB 197 provides a sales tax exemption to refineries for purchases or leases of "machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions or supplies used or consumed by a refinery. Starting as of July 1, 2021, a

refinery must produce gasoline with an average sulfur level lower than 10- parts per million in order to qualify for the exemption in 2021 and after.

The bill grants an exemption beyond that necessary to encourage early compliance with EPA sulfur content requirements. The EPA mandates all refiners to produce gasoline by 2025 that meets the new sulfur standard. However, all refineries benefit from the tax exemption between 2018 and July 2021, regardless of whether they meet the sulfur level by July 1, 2021. As of July 1, 2021, refiners will need to meet to the sulfur limitation to continue to receive the sales tax exemption, but the exemption continues until repealed.

*Fiscal Note:* The bill impacts state sales tax in the amount of \$859,000 for FY 2018 and FY \$2,136,100 for fiscal year 2019 and local sales tax in the amount of \$382,000 FY 2018 and \$954,000 FY 2019. Fiscal notes are limited to two years, but the fiscal impacts of the bill should continue until repealed.

AMENDS: 59-12-104

ENACTS: 63M-4-701 and 63M-4-702.

EFFECTIVE: January 1, 2018.

## **UTAH COMMUNICATIONS AUTHORITY AMENDMENTS**

[SB 198](#)

Sen. Wayne A. Harper

This bill amends provisions related to providing 911 emergency service by repealing the 911 emergency service charge. The bill provides for funding for state-wide 911 network. It modifies the composition of the Utah Communications Authority Board to 9 board members. All Board members cannot be current public safety communication network user or vendors and has knowledge of law enforcement, public safety, fire service, telecommunications, finance, management or government. Members will serve 4 year terms.

It amends the Utah Communications Authority, an independent state agency, duties are to provide administrative and financial support for statewide 911 emergency services and create and maintain a statewide public safety communication network. Further, it creates a regional advisory committee that report to the Utah Communications Authority Board. The operations advisory committee composed of 19 members that creates and annually reviews statewide comprehensive multi-year strategic plan. The committee reviews regional advisory committee recommendations, makes recommendations to the Board at least annually regarding authority operations and policies, authority strategic plan, and the operation, maintenance, and capital

development of the public safety communications network. Additionally, the bill requires the Utah Communications Authority to meet with stakeholders to identify existing communications sites and develop a plan for the public safety communications network. Further, it restricts bonding authority of the Utah Communications Authority.

The bill further, directs the State Tax Commission to provide a report on access line providers that are over 90 days delinquent in paying emergency service charges;

The bill designates appropriations from certain restricted accounts as nonlapsing while repealing certain advisory committees within the Utah Communications Authority. It requires a county to conduct an audit of the County's emergency services under certain circumstances.

AMENDS: 59-1-306; 59-1-401; 59-1-402; 59-1-403; 59-1-1402; 59-12-107; 59-12-108; 59-12-128; 63H-7a-102; 63H-7a-103; 63H-7a-201; 63H-7a-202; 63H-7a-203; 63H-7a-204; 63H-7a-205; 63H-7a-302; 63H-7a-303; 63H-7a-304; 63H-7a-403; 63H-7a-404; 63H-7a-502; 63H-7a-601; 63H-7a-603; 63H-7a-803; 63I-1-269; 63I-2-263; 63J-1-602.4

ENACTS: 63H-7a-207; 63H-7a-208; 69-2-202; 69-2-203; 69-2-301; 69-2-302; 69-2-401; 69-2-402; 69-2-404

#### RENUMBERS

& AMENDS: 69-2-101; 69-2-102; 69-2-201; 69-2-303; 69-2-403; 69-2-405; 69-2-501; 69-2-502; 69-2-503

#### REPEALS &

REENACTS: 63H-7a-206; 63H-7a-602; 63H-7a-701

REPEALS: 63H-7a-305; 63H-7a-306; 63H-7a-307; 63H-7a-405; 63H-7a-504; 63H-7a-700; 63H-7a-702; 63H-7a-703; 63H-7a-704; 63H-7a-705; 63H-7a-706; 69-2-4; 69-2-5; 69-2-5.5

## **PUBLIC-PRIVATE PARTNERSHIPS**

[SB 204](#)

Sen. R. Okerlund

This bill expands the definition of "procurement" by including an acquisition through a public-private partnership (PPP). It also defines a PPP as "an arrangement or agreement, occurring on or after January 1, 2017, between a procurement unit and one or more contractors to provide for a public need through the development or operation of a project in which the

contractor or contractors share with the procurement unit the responsibility or risk of developing, owning, maintaining, financing, or operating the project.”

In other words, you can use the PPP process, but it is subject to the procurement code.

AMENDS: 63G-6a-103; 63G-6a-702; 63G-6a-703; 63G-6a-707

## **PERMANENT CRIMINAL STALKING INJUNCTION AMENDMENTS**

[SB 226](#)

Sen. Todd Weiler

This bill allows permanent criminal stalking injunctions to be petitioned for under convictions and pleas in abeyance for attempted stalking.

Amends: §76-5-106.5

## **DOXING PROHIBITION AMENDMENTS**

[SB 227](#)

Sen. Howard Stephenson

This bill prohibits the disclosure or dissemination of identifying information with the intent that electronic communication harassment occurs and knowledge that the information will be further disseminated. The offense level varies from a class B misdemeanor to a third-degree felony based on the age of the victim and number of prior offenses.

AMENDS: §§76-6-702; 76-6-703

## **SOLICITATION AMENDMENTS**

[SB 230](#)

Sen. Todd Weiler

This bill updates the definition of sexual activity in the prostitution statute to include touching the genitals, female breast, or anus of one person with any other body part of another person with the intent to sexually arouse or gratify either person. Prostitution is expanded to include: 1- Engaging in, offering to, or agreeing to engage in any sexual activity with another for a fee; or 2- Taking steps in arranging a meeting through any form of advertising, agreeing to meet, and meeting at an arranged place for the purpose of sexual activity in exchange for a fee. Patronizing a prostitute is enhanced to a class A misdemeanor and enhances to a third-degree felony on a third conviction. Aiding prostitution is enhanced to a third-degree felony.

For convictions of patronizing a prostitute, aiding prostitution, exploiting prostitution, and aggravated exploitation of prostitution the court must order the maximum fine amount and may not waive or suspend the fine (\$2,500 for an A, \$5,000 for an F3, and \$10,000 for F2 and F1).

AMENDS: §§76-10-1301 through 1306, 76-10-1313.

## **CYBER EXPLOITATION AMENDMENTS**

[SB 232](#)

Sen. Curtis S. Bramble

This bill creates a new crime of sexual extortion and aggravated sexual extortion. It also makes this crime a registerable offense for the Sex Offender Registry. This crime basically comes down to any adult who extorts a victim with intent to coerce the victim to engage in sexually explicit conduct, or in simulated sexually explicit conduct, or to produce, provide, or distribute an image, video, or other recording of any individual naked or engaged in sexually explicit conduct has committed this crime. Extort comes down to threats that are made to the victim's person, property, or reputation, or to distribute an image or video of the victim, or knowingly causes a victim to engage in sexual conduct, or to produce, provide, or distribute any image, video, or other recording of any individual naked or engaged in sexually explicit conduct.

The offence is aggravated when the victim is a child or a vulnerable adult, the offense was committed using a dangerous weapon or by violence, intimidation, menace, fraud, or threat of physical harm or during a kidnapping. It is also aggravated when bodily injury or severe psychological injury to victim results. In addition, it is aggravated if the individual was a stranger or became friends for purpose of committing offense, or the defendant had been convicted of a previous sexual offense, or person occupied a position special trust. The last aggravating factors are that defendant encouraged, aided, allowed, or benefitted from acts of prostitution or sexual acts by victim with any individual, or sexual performance by victim before any other individual, human trafficking, or human smuggling, or the individual caused the penetration of the genitals or anal opening of victim.

AMENDS: 77-41-102; 77-41-106;

ENACTS: 76-5b-204

## **ASSAULT AND THREAT OF VIOLENCE AMENDMENT**

[SB 235](#)

Senator Daniel W. Thatcher

In the 2015 Legislative Session the “threat accompanied by an immediate show of force” provision was taken out of the assault statute and put into the threats statute. This was a very

good idea as it clarified that a person convicted of a domestic assault in Utah would be a restricted person under federal law. Unfortunately, not all assault enhancements were included in that legislation.

This bill fixes that problem. In each of the affected statutes the language is changed to say: “commits an assault as defined in §76-5-102, or commits a threat of violence as defined in §76-5-107....”

The following sections are affected; 76-5-102.3 Assault against school employee; 76-5-102.4 Assault against peace officer or a military service member in uniform; and 76-5-102.7 Assault against a health care provider or emergency medical service worker.

AMENDS: 76-5-102.3, 76-5-102.4, 76-5-102.7

## **INTERFERING WITH A PEACE OFFICER**

[SB 239](#)

Sen. Todd Weiler

This bill clarifies that interfering with a peace officer applies to any person who refuses to perform an act required by lawful order, not just the person being detained. The bill also states if a person records a law enforcement officer while the officer is performing official duties in plain view, recording does not by itself constitute interference with the officer, willful resistance, disorderly conduct, or obstruction of justice.

AMENDS: §76-8-305

## **LOCAL GOVERNMENT PLAN REVIEW AMENDMENTS**

[SB 241](#)

Sen. Curtis S. Bramble

This bill puts timelines on local government’s ability to review and approval building plans prior to issuing a building permit. This bill requires local government to review building plans within 14 business days for a one or two family dwelling and 21 business days for residential structure buildings under the international building code that are not lodging establishments (e.g., hotels, bed and breakfasts, resorts). If local government does not complete its initial plan review within these deadlines and the plan is stamped by a licensed architect or structural engineer, the local government cannot enforce a requirement to have the plan reviewed.

The bill has three exemptions carved out that would eliminate the need to comply with the time line. First, if the local government requires that the plan is re-submitted for modifications or changes that were detected on the initial review. Second, if the plans are

submitted as part of a deferred submittal process. Third, if the plan needs to be reviewed by a third-party due to its technical nature.

This bill has a sunset provision of July 1, 2018.

Local government should be aware of these time-lines and exemptions or else they may inadvertently forfeit the ability to enforce on their plan review provisions.

AMENDS: 10-5-132; 10-6-160; 17-36-55; 63I-1-210

ENACTS: 63I-1-217

## **GOVERNMENT RECORDS ACCESS AND MANAGEMENT ACT AMENDMENTS**

[SB 242](#)

Sen. Curtis S. Bramble

This GRAMA bill provides that a government entity is not required to respond to a record request from those confined in a correctional facility following conviction unless it contains a specific reference to the individual and that individual has not already made five requests and the request is not from that persons attorney.

The bill also provides that the chief administrative officer shall make a decision on appeal in 10 business days unless requester can show that an expedited decision is in the public's interest. The last changes say the courts cannot remand back to records committee and the records committee should have two members outside of government.

AMENDS: 63G-2-201; 63G-2-204; 63G-2-401 63G-2-404; 63G-2-701;

## **MODIFICATIONS TO DISTRIBUTION OF LOCAL SALES TAX REVENUES**

[SB 247](#)

Rep. Ralph Okerlund

This bill removes the repeal date for an eligible county, city, or town to receive a minimum distribution of certain local sales and use tax revenue.

AMENDS: 59-12-205.

## **FOOD TRUCK LICENSING AND REGULATION**

[SB250](#)

Sen. Henderson

This bill requires reciprocity between political subdivisions in licensing and permitting food trucks and food truck events. It prevents political subdivision from requiring multiple

business licenses and permits for a food truck to operate in more than one location in the municipality. It also requires a political subdivision to recognize another political subdivision's food truck license if certain licensing requirements are met. Local health departments must also recognize and accept health and safety permits from other local health departments in the state that are issued to food trucks. The bill creates requirements for food truck events, including events that are held on both private and public property. The bill also prohibits a city or country from preventing a food truck from operating within a certain distance of a restaurant.

AMENDS: §53-7-204

ENACTS: §§11-55-101; 11-55-102; 11-55-103; 11-55-104; 11-55-105 and 11-55-101

## **LOCAL GOVERNMENT CRIMINAL PENALTY AMENDMENTS**

[SB 251](#)

Sen. Daniel Thatcher

This bill makes a substantial change to local ordinance enforcement practice. The bill clarifies that only a law enforcement officer, and not any other municipal officer, may issue a criminal citation for a local ordinance that is a misdemeanor.

EFFECTIVE DATE: May 1, 2018

AMENDS: §10-3-703.

## **DISTRIBUTION OF REVENUES COLLECTED UNDER THE LOCAL SALES AND USE TAX ACT**

[SB 265](#)

Senator David P. Hinkins

SB 265 extends the special allocation of local sales tax to cities/towns/counties that have coal mining activities.

Of interest is that the bill restates the requirement that counties, cities, and towns amended ordinances authoring the local tax to include "applicable provisions" in Part 1, Tax Collection, when such provisions are amended. The term "applicable provisions" is not defined. However, Part 1 is amended almost every year. For this year, the refinery exemption added by SB 197 amends Section 59-12-104. Technically, ordinances must be amended within 30 days in order for the sales and use tax ordinances to remain "in effect."

*Fiscal Note:* The bill continues the shift of local sales tax to 10 cities/towns/counties with coal mines from all other municipalities within the state in the amount of \$333,583 each year between FY 2018 and FY 2022.

AMENDS: 59-12-205.

EFFECTIVE: May 9, 2017



## ELECTIONS MODIFICATIONS

[SB 269](#)

Sen. Howard A. Stephenson

Each year, the Lieutenant Governor generates a Master Ballot Position List. This list is a random ordering of all the letters of the alphabet. Election officers are required to use the list “to determine the order in which to list candidates on the ballot for an election held during the year.” UTAH CODE ANN. § 20A-6-305(3) (2017). Research has shown that candidates with surnames beginning with the letter “A,” for example, have an advantage if they are listed first on the ballot above challengers with surnames beginning with other letters. The Master Ballot Position List is considered the fairest method to determine the order in which candidates are listed on the ballot.

The Legislature found a number of instances during recent elections where candidates changed the surname they used in their race in order to gain a favorable position on the ballot. This was possible because candidates were not required to file their declarations of candidacy until after the Lieutenant Governor issued the Master Ballot Position List. SB 269 was enacted to prevent candidates from manipulating the ballot order in this way. It changes the deadline for the Lieutenant Governor to issue the Master Ballot Position List so it now occurs *after* the candidate filings are due.

AMENDS: 20A-6-305

## CAMPAIGN FINANCE REPORTING AMENDMENTS

[SB 275](#)

Sen. Lyle W. Hillyard

This bill removes certain reporting requirements from campaign finance reports filed by corporations. A corporation that expends money for “political purposes” in an amount exceeding \$750.00 in a calendar year no longer needs to provide a statement to the lieutenant governor that it either (1) did not receive any money from donors or (2) provide a list identifying donors and amounts received from each donor along with other required information. A corporation also no longer must disclose to a donor that donations related to (2) above may be used for political purposes or that the donor’s identification may be disclosed.

The same changes were made concerning the contents of financial statements required when a corporation has donated money for “current or proposed ballot issues” that exceed \$750 in a calendar year.

AMENDS: 20A-11-701, 20A-11-702