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PRIVILEGE TAX AMENDMENTS

2

2016 GENERAL SESSION

3

STATE OF UTAH

4

Chief Sponsor: Jon E. Stanard

5

Senate Sponsor: _____

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7 LONG TITLE**8 Committee Note:**

9 The Revenue and Taxation Interim Committee recommended this bill.

10 General Description:

11 This bill modifies the privilege tax statute.

12 Highlighted Provisions:

13 This bill:

- 14 ▶ defines "exclusive possession" as it relates to a privilege tax; and
- 15 ▶ makes technical changes.

16 Money Appropriated in this Bill:

17 None

18 Other Special Clauses:

19 This bill provides for retrospective operation.

20 Utah Code Sections Affected:

21 AMENDS:

22 [59-4-101](#), as last amended by Laws of Utah 2015, Chapter 199

23

*24 Be it enacted by the Legislature of the state of Utah:*25 Section 1. Section **59-4-101** is amended to read:26 **59-4-101. Tax basis -- Exceptions -- Assessment and collection.**27 (1) As used in this section, "exclusive possession" means:

28 (a) for real property, the beneficial use of the property, together with the
ability to
29 exclude from occupancy and use any person other than the owner or an agent
of the owner; and
30 (b) for personal property, the beneficial use of the property, together with the
ability to
31 exclude any person other than the owner or an agent of the owner from the
beneficial use of the
32 property.
33 ~~[(1)]~~ (2) (a) Except as provided in Subsections ~~[(1)]~~ (2)(b) ~~[and]~~ (2)(c), and
(4), a tax
34 is imposed on the possession or other beneficial use enjoyed by any person of
any real or
35 personal property ~~[which]~~ that is exempt for any reason ~~[is exempt]~~ from
taxation, if that
36 property is used in connection with a business conducted for profit.
37 (b) Any interest remaining in the state in state lands after subtracting
amounts paid or
38 due in part payment of the purchase price as provided in Subsection [59-2-](#)
[1103](#)(2)(b)(i) under a
39 contract of sale is subject to taxation under this chapter regardless of whether
the property is
40 used in connection with a business conducted for profit.
41 (c) The tax imposed under Subsection ~~[(1)]~~ (2)(a) does not apply to property
exempt
42 from taxation under Section [59-2-1114](#).
43 ~~[(2)]~~ (3) (a) The tax imposed under this chapter is the same amount that the
ad
44 valorem property tax would be if the possessor or user were the owner of the
property.
45 (b) The amount of any payments ~~[which]~~ that are made in lieu of taxes is
credited
46 against the tax imposed on the beneficial use of property owned by the federal
government.
47 ~~[(3)]~~ (4) A tax is not imposed under this chapter on the following:
48 (a) the use of property ~~[which]~~ that is a concession in, or relative to, the use
of a public
49 airport, park, fairground, or similar property ~~[which]~~ that is available as a matter
of right to the
50 use of the general public;
51 (b) the use or possession of property by a religious, educational, or
charitable
52 organization;

53 (c) the use or possession of property if the revenue generated by the
54 possessor or user
55 of the property through its possession or use of the property inures only to the
56 benefit of a
57 religious, educational, or charitable organization and not to the benefit of any
58 other person;
59 (d) the possession or other beneficial use of public land occupied under the
60 terms of an
61 agricultural lease or permit issued by the United States or this state;
62 (e) the use or possession of any lease, permit, or easement unless the lease,
63 permit, or

64 easement entitles the lessee or permittee to exclusive possession of the
65 premises to which the
66 lease, permit, or easement relates. Every lessee, permittee, or other holder of a
67 right to remove
68 or extract the mineral covered by the holder's lease, right, permit, or easement,
69 except from
70 brines of the Great Salt Lake, is considered to be in possession of the premises,
71 ~~[notwithstanding the fact that other parties may have]~~ regardless of whether
72 another party has a
73 similar right to remove or extract another mineral from the same ~~[lands or~~
74 ~~estates]~~ property;

75 (f) the use or possession of property by a public agency, as defined in
76 Section
77 [11-13-103](#), to the extent that the ownership interest of the public agency in that
78 property is

79 subject to a fee in lieu of ad valorem property tax under Section [11-13-302](#); or

80 (g) the possession or beneficial use of public property as a tollway by a
81 private entity

82 through a tollway development agreement as defined in Section [72-6-202](#).

83 ~~[(4)]~~ (5) A tax imposed under this chapter is assessed to the possessors or
84 users of the

85 property on the same forms, and collected and distributed at the same time and
86 in the same

87 manner, as taxes assessed owners, possessors, or other claimants of property
88 ~~[which]~~ that is

89 subject to ad valorem property taxation. The tax is not a lien against the
90 property, and no

91 tax-exempt property may be attached, encumbered, sold, or otherwise affected
92 for the

93 collection of the tax.

94 ~~[(5)]~~ (6) Sections [59-2-301.1](#) through [59-2-301.7](#) apply for purposes of

assessing a tax

77 under this chapter.

78 Section 2. **Retrospective operation.**

79 This bill has retrospective operation to January 1, 2015.

Legislative Review Note

Office of Legislative Research and General Counsel

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AERONAUTICS RESTRICTED ACCOUNT AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jon E. Stanard

Senate Sponsor: _____

LONG TITLE

Committee Note:

The Revenue and Taxation Interim Committee recommended this bill.

General Description:

This bill addresses the expenditure of revenues deposited into the Aeronautics

Restricted Account.

Highlighted Provisions:

This bill:

- addresses the expenditure of revenues deposited into the Aeronautics Restricted

Account; and

- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

[72-2-126](#), as enacted by Laws of Utah 2009, Chapter 358

26 *Be it enacted by the Legislature of the state of Utah:*

27 Section 1. Section **72-2-126** is amended to read:

28 **72-2-126. Aeronautics Restricted Account.**

29 (1) There is created a restricted account entitled the Aeronautics Restricted
Account

30 within the Transportation Fund.

31 (2) The account consists of money generated from the following revenue
sources:

32 (a) aviation fuel tax allocated for aeronautical operations deposited into the
account in

33 accordance with Section [59-13-402](#);

34 (b) aircraft registration fees deposited into the account in accordance with
Section

35 [72-10-110](#);

36 (c) appropriations made to the account by the Legislature;

37 (d) contributions from other public and private sources for deposit into the
account;

38 and

39 (e) interest earned on account money.

40 (3) The department shall allocate funds in the account to the separate
accounts of

41 individual airports as required under Section [59-13-402](#).

42 (4) ~~[The]~~ (a) Except as provided in Subsection (4)(b), the department shall
use funds

43 in the account for:

44 ~~[(a)]~~ (i) the construction, improvement, operation, and maintenance of
publicly used

45 airports in this state;

46 ~~[(b)]~~ (ii) the payment of principal and interest on indebtedness incurred for
the

47 purposes described in Subsection (4)(a);

48 ~~[(c)]~~ (iii) operation of the division of aeronautics;

49 ~~[(d)]~~ (iv) the promotion of aeronautics in this state; and

50 ~~[(e)]~~ (v) the payment of the costs and expenses of the Department of
Transportation in

51 administering Title 59, Chapter 13, Part 4, Aviation Fuel ~~[Tax]~~, or ~~[other]~~ another
law

52 conferring upon it the duty of regulating and supervising aeronautics in this
state~~[-; and]~~.

53 ~~[(f) the support of aerial search and rescue operations.]~~

54 (b) The department may use funds in the account for the support of aerial
search and

55 rescue operations, provided that no money deposited into the account under

Subsection (2)(a)

56 is used for that purpose.

57 (5) (a) Money in the account may not be used by the department for the purchase of

58 aircraft for purposes other than those described in [~~Subsections (4)(a) through (f).~~] Subsection

59 (4).

60 (b) Money in the account may not be used to provide or subsidize direct operating costs

61 of travel for purposes other than those described in [~~Subsections (4)(a) through (f).~~] Subsection

62 (4).

Legislative Review Note

Office of Legislative Research and General Counsel

1

MEDICAL CARE SAVINGS ACCOUNT TAX CREDIT

2

REPEAL

3

2016 GENERAL SESSION

4

STATE OF UTAH

5

Chief Sponsor: Jeremy A. Peterson

6

Senate Sponsor: _____

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8 LONG TITLE**9 General Description:**

10 This bill repeals the medical care savings account tax credit.

11 Highlighted Provisions:

12 This bill:

- 13 ▶ repeals the medical care savings account tax credit; and
- 14 ▶ makes technical and conforming changes.

15 Money Appropriated in this Bill:

16 None

17 Other Special Clauses:

18 This bill provides a special effective date.

19 Utah Code Sections Affected:

20 AMENDS:

21 [31A-32a-101](#), as last amended by Laws of Utah 2008, Chapter 38922 [31A-32a-106](#), as last amended by Laws of Utah 2008, Chapter 38923 [59-10-114](#), as last amended by Laws of Utah 2010, Chapter 624 [59-10-1002.2](#), as last amended by Laws of Utah 2011, Chapter 302

25 REPEALS:

26 [59-10-1021](#), as enacted by Laws of Utah 2008, Chapter 389

27

28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **31A-32a-101** is amended to read:

30 **31A-32a-101. Title.**

31 ~~[(1)]~~ This chapter is known as the "Medical Care Savings Account Act."

32 ~~[(2)-(a)]~~ This chapter applies only to a medical care savings account established for the

33 ~~purpose of seeking a tax credit under Section [59-10-1021](#).]~~

34 ~~[(b)]~~ This chapter does not apply to a medical care savings account with respect to

35 ~~which a tax credit is not claimed under Section [59-10-1021](#).]~~

36 Section 2. Section **31A-32a-106** is amended to read:

37 **31A-32a-106. Regulation of account administrators -- Administration of addition**

38 **to adjusted gross income and tax credit -- Rulemaking authority.**

39 (1) The department shall regulate account administrators and may adopt rules

40 necessary to administer this chapter.

41 (2) The State Tax Commission may adopt rules necessary to monitor and implement

42 the~~[-(a)]~~ amounts required to be added to adjusted gross income in accordance with Sections

43 [31A-32a-105](#) and [59-10-114](#)~~[-of]~~.

44 ~~[(b)]~~ amount claimed as a tax credit in accordance with Section [59-10-1021](#).]

45 Section 3. Section **59-10-114** is amended to read:

46 **59-10-114. Additions to and subtractions from adjusted gross income of an**

47 **individual.**

48 (1) There shall be added to adjusted gross income of a resident or nonresident

49 individual:

50 (a) a lump sum distribution that the taxpayer does not include in adjusted gross income

51 on the taxpayer's federal individual income tax return for the taxable year;

52 (b) the amount of a child's income calculated under Subsection (4) that:

53 (i) a parent elects to report on the parent's federal individual income tax return for the

54 taxable year; and

55 (ii) the parent does not include in adjusted gross income on the parent's federal

56 individual income tax return for the taxable year;

57 (c) (i) a withdrawal from a medical care savings account and any penalty

imposed for
58 the taxable year if:

59 (A) the resident or nonresident individual does not deduct the amounts on
the resident
60 or nonresident individual's federal individual income tax return under Section
220, Internal
61 Revenue Code;
62 (B) the withdrawal is subject to Subsections [31A-32a-105](#)(1) and (2); and
63 (C) the withdrawal is:
64 (I) subtracted on a return the resident or nonresident individual files under
this chapter
65 for a taxable year beginning on or before December 31, 2007; or
66 (II) used as the basis for a resident or nonresident individual to claim a tax
credit under
67 Section [59-10-1021](#) for a taxable year ending on or before December 31, 2016;
68 (ii) a disbursement required to be added to adjusted gross income in
accordance with
69 Subsection [31A-32a-105](#)(3); or
70 (iii) an amount required to be added to adjusted gross income in accordance
with
71 Subsection [31A-32a-105](#)(5)(c);
72 (d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational
Savings Plan,
73 from the account of a resident or nonresident individual who is an account
owner as defined in
74 Section [53B-8a-102](#), for the taxable year for which the amount is withdrawn, if
that amount
75 withdrawn from the account of the resident or nonresident individual who is the
account
76 owner:
77 (i) is not expended for:
78 (A) higher education costs as defined in Section [53B-8a-102](#); or
79 (B) a payment or distribution that qualifies as an exception to the additional
tax for
80 distributions not used for educational expenses provided in Sections 529(c) and
530(d),
81 Internal Revenue Code; and
82 (ii) is:
83 (A) subtracted by the resident or nonresident individual:
84 (I) who is the account owner; and
85 (II) on the resident or nonresident individual's return filed under this chapter
for a

86 taxable year beginning on or before December 31, 2007; or
87 (B) used as the basis for the resident or nonresident individual who is the
account
88 owner to claim a tax credit under Section [59-10-1017](#);
89 (e) except as provided in Subsection (5), for bonds, notes, and other
evidences of

90 indebtedness acquired on or after January 1, 2003, the interest from bonds,
notes, and other
91 evidences of indebtedness issued by one or more of the following entities:
92 (i) a state other than this state;
93 (ii) the District of Columbia;
94 (iii) a political subdivision of a state other than this state; or
95 (iv) an agency or instrumentality of an entity described in Subsections (1)(e)
(i) through
96 (iii);
97 (f) subject to Subsection (2)(c), any distribution received by a resident
beneficiary of a
98 resident trust of income that was taxed at the trust level for federal tax purposes,
but was
99 subtracted from state taxable income of the trust pursuant to Subsection [59-10-
202](#)(2)(b);
100 (g) any distribution received by a resident beneficiary of a nonresident trust
of
101 undistributed distributable net income realized by the trust on or after January
1, 2004, if that
102 undistributed distributable net income was taxed at the trust level for federal
tax purposes, but
103 was not taxed at the trust level by any state, with undistributed distributable net
income
104 considered to be distributed from the most recently accumulated undistributed
distributable net
105 income; and
106 (h) any adoption expense:
107 (i) for which a resident or nonresident individual receives reimbursement
from another
108 person; and
109 (ii) to the extent to which the resident or nonresident individual subtracts
that adoption
110 expense:
111 (A) on a return filed under this chapter for a taxable year beginning on or
before
112 December 31, 2007; or

113 (B) from federal taxable income on a federal individual income tax return.
114 (2) There shall be subtracted from adjusted gross income of a resident or
nonresident
115 individual:
116 (a) the difference between:
117 (i) the interest or a dividend on an obligation or security of the United States
or an
118 authority, commission, instrumentality, or possession of the United States, to
the extent that
119 interest or dividend is:
120 (A) included in adjusted gross income for federal income tax purposes for
the taxable

121 year; and
122 (B) exempt from state income taxes under the laws of the United States;
and
123 (ii) any interest on indebtedness incurred or continued to purchase or carry
the
124 obligation or security described in Subsection (2)(a)(i);
125 (b) for taxable years beginning on or after January 1, 2000, if the conditions
of
126 Subsection (3)(a) are met, the amount of income derived by a Ute tribal
member:
127 (i) during a time period that the Ute tribal member resides on homesteaded
land
128 diminished from the Uintah and Ouray Reservation; and
129 (ii) from a source within the Uintah and Ouray Reservation;
130 (c) an amount received by a resident or nonresident individual or
distribution received
131 by a resident or nonresident beneficiary of a resident trust:
132 (i) if that amount or distribution constitutes a refund of taxes imposed by:
133 (A) a state; or
134 (B) the District of Columbia; and
135 (ii) to the extent that amount or distribution is included in adjusted gross
income for
136 that taxable year on the federal individual income tax return of the resident or
nonresident
137 individual or resident or nonresident beneficiary of a resident trust;
138 (d) the amount of a railroad retirement benefit:
139 (i) paid:
140 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec.
231 et
141 seq.;

142 (B) to a resident or nonresident individual; and
143 (C) for the taxable year; and
144 (ii) to the extent that railroad retirement benefit is included in adjusted gross
income on
145 that resident or nonresident individual's federal individual income tax return for
that taxable
146 year; and
147 (e) an amount:
148 (i) received by an enrolled member of an American Indian tribe; and
149 (ii) to the extent that the state is not authorized or permitted to impose a tax
under this
150 part on that amount in accordance with:
151 (A) federal law;

152 (B) a treaty; or
153 (C) a final decision issued by a court of competent jurisdiction.
154 (3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed
only if:
155 (i) the taxpayer is a Ute tribal member; and
156 (ii) the governor and the Ute tribe execute and maintain an agreement
meeting the
157 requirements of this Subsection (3).
158 (b) The agreement described in Subsection (3)(a):
159 (i) may not:
160 (A) authorize the state to impose a tax in addition to a tax imposed under
this chapter;
161 (B) provide a subtraction under this section greater than or different from
the
162 subtraction described in Subsection (2)(b); or
163 (C) affect the power of the state to establish rates of taxation; and
164 (ii) shall:
165 (A) provide for the implementation of the subtraction described in
Subsection (2)(b);
166 (B) be in writing;
167 (C) be signed by:
168 (I) the governor; and
169 (II) the chair of the Business Committee of the Ute tribe;
170 (D) be conditioned on obtaining any approval required by federal law; and
171 (E) state the effective date of the agreement.
172 (c) (i) The governor shall report to the commission by no later than February
1 of each
173 year regarding whether or not an agreement meeting the requirements of this
Subsection (3) is

174 in effect.

175 (ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the

176 subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or

177 after the January 1 following the termination of the agreement.

178 (d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3,

179 Utah Administrative Rulemaking Act, the commission may make rules:

180 (i) for determining whether income is derived from a source within the Uintah and

181 Ouray Reservation; and

182 (ii) that are substantially similar to how adjusted gross income derived from Utah

183 sources is determined under Section [59-10-117](#).

184 (4) (a) For purposes of this Subsection (4), "Form 8814" means:

185 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's

186 Interest and Dividends; or

187 (ii) (A) a form designated by the commission in accordance with Subsection

188 (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal

189 individual income taxes the information contained on 2000 Form 8814 is reported on a form

190 other than Form 8814; and

191 (B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter

192 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as

193 being substantially similar to 2000 Form 8814 if for purposes of federal individual income

194 taxes the information contained on 2000 Form 8814 is reported on a form other than Form

195 8814.

196 (b) The amount of a child's income added to adjusted gross income under Subsection

197 (1)(b) is equal to the difference between:

198 (i) the lesser of:

199 (A) the base amount specified on Form 8814; and

200 (B) the sum of the following reported on Form 8814:

201 (I) the child's taxable interest;

202 (II) the child's ordinary dividends; and

203 (III) the child's capital gain distributions; and
204 (ii) the amount not taxed that is specified on Form 8814.
205 (5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other
evidences
206 of indebtedness issued by an entity described in Subsections (1)(e)(i) through
(iv) may not be
207 added to adjusted gross income of a resident or nonresident individual if, as
annually
208 determined by the commission:
209 (a) for an entity described in Subsection (1)(e)(i) or (ii), the entity and all of
the
210 political subdivisions, agencies, or instrumentalities of the entity do not impose
a tax based on
211 income on any part of the bonds, notes, and other evidences of indebtedness
of this state; or
212 (b) for an entity described in Subsection (1)(e)(iii) or (iv), the following do
not impose
213 a tax based on income on any part of the bonds, notes, and other evidences of
indebtedness of

214 this state:

215 (i) the entity; or

216 (ii) (A) the state in which the entity is located; or

217 (B) the District of Columbia, if the entity is located within the District of
Columbia.

218 Section 4. Section **59-10-1002.2** is amended to read:

219 **59-10-1002.2. Apportionment of tax credits.**

220 (1) A nonresident individual or a part-year resident individual that claims a
tax credit

221 in accordance with Section [59-10-1017](#), [59-10-1018](#), [59-10-1019](#), [~~59-10-~~
~~1021,~~] [59-10-1022](#),

222 [59-10-1023](#), [59-10-1024](#), or [59-10-1028](#) may only claim an apportioned
amount of the tax

223 credit equal to:

224 (a) for a nonresident individual, the product of:

225 (i) the state income tax percentage for the nonresident individual; and

226 (ii) the amount of the tax credit that the nonresident individual would have
been

227 allowed to claim but for the apportionment requirements of this section; or

228 (b) for a part-year resident individual, the product of:

229 (i) the state income tax percentage for the part-year resident individual; and

230 (ii) the amount of the tax credit that the part-year resident individual would
have been

- 231 allowed to claim but for the apportionment requirements of this section.
- 232 (2) A nonresident estate or trust that claims a tax credit in accordance with
Section
- 233 [59-10-1017](#), [59-10-1020](#), [59-10-1022](#), [59-10-1024](#), or [59-10-1028](#) may only
claim an
- 234 apportioned amount of the tax credit equal to the product of:
- 235 (a) the state income tax percentage for the nonresident estate or trust; and
- 236 (b) the amount of the tax credit that the nonresident estate or trust would
have been
- 237 allowed to claim but for the apportionment requirements of this section.
- 238 **Section 5. Repealer.**
- 239 This bill repeals:
- 240 Section [59-10-1021](#), **Nonrefundable medical care savings account tax
credit.**
- 241 **Section 6. Effective date.**
- 242 This bill takes effect on January 1, 2017.
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Legislative Review Note
Office of Legislative Research and General Counsel

1

TAX COMMISSION LEVY PROCESS

2

2016 GENERAL SESSION

3

STATE OF UTAH

4

Chief Sponsor: Wayne A. Harper

5

House Sponsor: _____

6

7 **LONG TITLE**

8 **Committee Note:**

9 The Revenue and Taxation Interim Committee recommended this bill.

10 **General Description:**

11 This bill enacts a State Tax Commission levy process using a depository
institution data

12 match system to collect certain amounts owed by a delinquent taxpayer.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ defines terms and modifies definitions;
- 16 ▶ enacts the Depository Institution Data Match System and Levy Act;
- 17 ▶ provides procedures and requirements for the depository institution data
match

18 system and levy process, including:

19 • requiring the State Tax Commission to develop and operate the
database in

20 coordination with depository institutions;

21 • requiring the State Tax Commission to enter into agreements with

22 depository institutions;

23 • requiring a depository institution to provide the State Tax Commission
with

24 certain information;

25 • establishing a levy process for collecting a liability from a delinquent

taxpayer

26 using the depository institution data match system;

27 • addressing duties of a depository institution and the State Tax
Commission in

28 relation to the depository institution data match system and levy process;

29 • addressing a reimbursement the State Tax Commission pays to a
depository

30 institution;

31 • addressing an amount levied or released in error;

32 • addressing the confidentiality and disclosure of information;

33 • addressing limits on a depository institution's liability; and

34 • granting rulemaking authority to the State Tax Commission; and

35 ▶ makes technical and conforming changes.

36 **Money Appropriated in this Bill:**

37 None

38 **Other Special Clauses:**

39 This bill provides a special effective date.

40 **Utah Code Sections Affected:**

41 AMENDS:

42 [7-1-1004](#), as last amended by Laws of Utah 2009, Chapter 381

43 [59-1-1402](#), as last amended by Laws of Utah 2012, Chapter 357

44 ENACTS:

45 [59-1-1701](#), Utah Code Annotated 1953

46 [59-1-1702](#), Utah Code Annotated 1953

47 [59-1-1703](#), Utah Code Annotated 1953

48 [59-1-1704](#), Utah Code Annotated 1953

49 [59-1-1705](#), Utah Code Annotated 1953

50 [59-1-1706](#), Utah Code Annotated 1953

51 [59-1-1707](#), Utah Code Annotated 1953

52 [59-1-1708](#), Utah Code Annotated 1953

53 [59-1-1709](#), Utah Code Annotated 1953

54 [59-1-1710](#), Utah Code Annotated 1953

55 [59-1-1711](#), Utah Code Annotated 1953

56 [59-1-1712](#), Utah Code Annotated 1953

57 [59-1-1713](#), Utah Code Annotated 1953

58 [59-1-1714](#), Utah Code Annotated 1953

59 [59-1-1715](#), Utah Code Annotated 1953

60

61 *Be it enacted by the Legislature of the state of Utah:*

62 Section 1. Section **7-1-1004** is amended to read:

63 **7-1-1004. Reimbursement of financial institution for costs of obtaining**
64 **information.**

65 (1) [A] Except as provided in Subsection (2), a financial institution is entitled
66 to

66 reimbursement by a governmental entity seeking information, for costs
67 reasonably and directly

67 incurred in searching for, reproducing, or transporting a record required to be
68 produced if the

68 financial institution produces the record:

69 (a) pursuant to written permission by all account holders of the account
70 referenced in

70 the record in accordance with:

71 (i) Subsection [7-1-1001\(2\)\(a\)](#); or

72 (ii) Subsection [7-1-1006\(2\)\(b\)\(iii\)](#);

73 (b) in compliance with an order obtained under this part; or

74 (c) in compliance with an order of a court or administrative body of
75 competent

75 jurisdiction.

76 (2) A depository institution is not allowed reimbursement under this section
77 by the

77 State Tax Commission for information the depository institution provides or
78 action the

78 depository institution takes in accordance with Title 59, Chapter 1, Part 17,
79 Depository

79 Institution Data Match System and Levy Act.

80 ~~[(2)]~~ (3) The commissioner shall by rule establish the rates and conditions
81 under which

81 a governmental entity shall reimburse a financial institution.

82 Section 2. Section **59-1-1402** is amended to read:

83 **59-1-1402. Definitions.**

84 As used in this part:

85 (1) "Administrative cost" means a fee imposed to cover:

86 (a) the cost of filing;

87 (b) the cost of administering a garnishment; ~~[or]~~

88 (c) the amount the commission pays to a depository institution in accordance
89 with

89 Section [59-1-1711](#); or

90 ~~[(e)]~~ (d) a cost similar to ~~[Subsection (1)(a) or (b)]~~ Subsections (1)(a) through
91 (c) as

91 determined by the commission by rule made in accordance with Title 63G,
Chapter 3, Utah

92 Administrative Rulemaking Act.

93 (2) "Books and records" means the following made available in printed or
electronic

94 format:

95 (a) an account;

96 (b) a book;

97 (c) an invoice;

98 (d) a memorandum;

99 (e) a paper;

100 (f) a record; or

101 (g) an item similar to Subsections (2)(a) through (f) as determined by the
commission

102 by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
Rulemaking Act.

103 (3) "Deficiency" means:

104 (a) the amount by which a tax, fee, or charge exceeds the difference
between:

105 (i) the sum of:

106 (A) the amount shown as the tax, fee, or charge by a person on the
person's return; and

107 (B) any amount previously assessed, or collected without assessment, as a
deficiency;

108 and

109 (ii) any amount previously abated, credited, refunded, or otherwise repaid
with respect

110 to that tax, fee, or charge; or

111 (b) if a person does not show an amount as a tax, fee, or charge on the
person's return,

112 or if a person does not make a return, the amount by which the tax, fee, or
charge exceeds:

113 (i) the amount previously assessed, or collected without assessment, as a
deficiency;

114 and

115 (ii) any amount previously abated, credited, refunded, or otherwise repaid
with respect

116 to that tax, fee, or charge.

117 (4) "Garnishment" means any legal or equitable procedure through which
one or more

118 of the following are required to be withheld for payment of an amount a person
owes:

119 (a) an asset of the person held by another person; or

120 (b) the earnings of the person.

121 (5) "Liability" means the following that a person is required to remit to the
122 commission:

123 (a) a tax, fee, or charge;

124 (b) an addition to a tax, fee, or charge;

125 (c) an administrative cost;

126 (d) interest that accrues in accordance with Section [59-1-402](#); or

127 (e) a penalty that accrues in accordance with Section [59-1-401](#).

128 (6) (a) Subject to Subsection (6)(b), "mathematical error" is as defined in
Section

129 6213(g)(2), Internal Revenue Code.

130 (b) The reference to Section 6213(g)(2), Internal Revenue Code, in
Subsection (6)(a)

131 means:

132 (i) the reference to Section 6213(g)(2), Internal Revenue Code, in effect for
the taxable

133 year; or

134 (ii) a corresponding or comparable provision of the Internal Revenue Code
as

135 amended, redesignated, or reenacted.

136 (7) (a) Except as provided in Subsection (7)(b), "tax, fee, or charge" means:

137 (i) a tax, fee, or charge the commission administers under:

138 (A) this title;

139 (B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

140 (C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax
Act;

141 (D) Section [19-6-410.5](#);

142 (E) Section [19-6-714](#);

143 (F) Section [19-6-805](#);

144 (G) Section [32B-2-304](#);

145 (H) Section [34A-2-202](#);

146 (I) Section [40-6-14](#);

147 (J) Section [69-2-5](#);

148 (K) Section [69-2-5.5](#); or

149 (L) Section [69-2-5.6](#); or

150 (ii) another amount that by statute is administered by the commission.

151 (b) "Tax, fee, or charge" does not include a tax, fee, or charge imposed
under:

152 (i) Title 41, Chapter 1a, Motor Vehicle Act, except for Section [41-1a-301](#);

153 (ii) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

154 (iii) Chapter 2, Property Tax Act;

155 (iv) Chapter 3, Tax Equivalent Property Act;

156 (v) Chapter 4, Privilege Tax; or

157 (vi) Chapter 13, Part 5, Interstate Agreements.
158 (8) "Transferee" means:
159 (a) a devisee;
160 (b) a distributee;
161 (c) a donee;
162 (d) an heir;
163 (e) a legatee; or
164 (f) a person similar to Subsections (8)(a) through (e) as determined by the
commission

165 by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
Rulemaking Act.

166 Section 3. Section **59-1-1701** is enacted to read:

167

Part 17. Depository Institution Data Match System and Levy Act

168 **59-1-1701. Title.**

169 This part is known as the "Depository Institution Data Match System and
Levy Act."

170 Section 4. Section **59-1-1702** is enacted to read:

171 **59-1-1702. Definitions.**

172 As used in this part:

173 (1) "Delinquent taxpayer" means a person against whom the commission is
considered

174 to have obtained a judgment for a liability under Section [59-1-1414](#).

175 (2) "Depository institution" is a depository institution described in Section [7-
1-103](#) that

176 holds or receives deposits, savings, or share accounts.

177 (3) "Depository institution data match system" means the database the
commission

178 develops, maintains, and operates in accordance with Section [59-1-1703](#).

179 (4) "Identifying information" means the following that a depository institution
provides

180 to the commission in relation to an account holder under this part:

181 (a) the name of the account holder;

182 (b) the social security number of the account holder; or

183 (c) other identifying information.

184 (5) "Liability" means the same as that term is defined in Section [59-1-1402](#).

185 (6) "Satisfy a liability" means to pay in full a liability that is the subject of a
levy under

186 this part.

187 Section 5. Section **59-1-1703** is enacted to read:

188 **59-1-1703. Depository institution data match system -- Agreements**

between

189 **commission and depository institutions.**

190 (1) The commission shall develop, maintain, and operate a database as provided in this

191 section that:

192 (a) uses automated data exchanges;

193 (b) identifies a delinquent taxpayer by identifying information;

194 (c) may be accessed only by the commission or a depository institution;

195 (d) is used to determine whether a delinquent taxpayer identified in the database has

196 the same identifying information as that of an account holder at a depository institution; and

197 (e) is updated by the commission on at least a quarterly basis.

198 (2) The commission shall enter into agreements with depository institutions doing

199 business in the state to:

200 (a) coordinate the development and operation of the depository institution data match

201 system;

202 (b) participate in using the depository institution data match system as provided in this

203 part;

204 (c) address reimbursement to the depository institution in accordance with Section

205 [59-1-1711](#) for complying with the requirements of this part; and

206 (d) provide for the security and confidentiality of the data contained in the depository

207 institution data match system.

208 Section 6. Section **59-1-1704** is enacted to read:

209 **59-1-1704. Depository institution to access depository institution data match**

210 **system.**

211 (1) A depository institution that enters into an agreement with the commission in

212 accordance with Section [59-1-1703](#) shall access the depository institution data match system on

213 or before the 15th day of each calendar quarter to determine whether a delinquent taxpayer

214 identified in the depository institution data match system has the same identifying information

215 as that of an account holder at the depository institution.

216 (2) If a depository institution determines that a delinquent taxpayer identified

in the

217 depository institution data match system has the same identifying information
as that of an

218 account holder at the depository institution, the depository institution shall,
within three

219 business days after the depository institution accesses the depository
institution data match

220 system, provide the commission with the following information the depository
institution has

221 in relation to the account holder:

222 (a) the name of the account holder;

223 (b) the address of the account holder;

224 (c) the account number of the account holder;

225 (d) the account balance of the account holder as of the date the depository
institution

226 provides the commission the information:

227 (e) the type of account of the account holder;

228 (f) the social security number of the account holder;

229 (g) other information that identifies the account holder; and

230 (h) the name of and contact information for other account holders that have
access to

231 the account.

232 Section 7. Section **59-1-1705** is enacted to read:

233 **59-1-1705. Commission requirement to provide notice of levy to**
depository

234 **institution -- Duration of levy.**

235 (1) The commission shall provide, within three business days after a
depository

236 institution provides the commission information described in Subsection [59-1-](#)
[1704](#)(2), a

237 notice of levy to the depository institution by electronic means:

238 (a) stating that the commission levies an amount equal to the liability of a
delinquent

239 taxpayer that is an account holder at the depository institution; and

240 (b) identifying the account subject to levy.

241 (2) A levy described in Subsection (1) is valid until the earlier of:

242 (a) the date the commission releases the levy;

243 (b) the date the delinquent taxpayer satisfies the liability; or

244 (c) the date the depository institution makes the final subsequent release in
accordance

245 with Section [59-1-1709](#) of amounts deposited into the account of the
delinquent taxpayer.

246 (3) The commission shall provide notice to a depository institution by
247 electronic

247 means:

248 (a) if the commission releases a levy, no later than one business day after
249 the date the

249 commission releases the levy; or

250 (b) if a delinquent taxpayer satisfies the liability, no later than one business
251 day after

251 the date the delinquent taxpayer satisfies the liability.

252 Section 8. Section **59-1-1706** is enacted to read:

253 **59-1-1706. Depository institution requirement to secure amount**
254 **subject to levy in**

254 **account holder's account.**

255 (1) Subject to Subsection (3), no later than one business day after the date
256 a depository

256 institution receives a notice of levy described in Section [59-1-1705](#) from the
257 commission, the

257 depository institution shall secure the amount subject to levy in a delinquent
258 taxpayer's account

258 by prohibiting:

259 (a) any person that has access to the delinquent taxpayer's account from
260 accessing the

260 amount; or

261 (b) the transfer or other disposition of the amount.

262 (2) Subject to Subsection (3), if, on the date a depository institution secures
263 an amount

263 under Subsection (1), the balance of the delinquent taxpayer's account is less
264 than the amount

264 subject to levy stated on the notice of levy described in Section [59-1-1705](#), the
265 depository

265 institution shall secure deposits into the account holder's account:

266 (a) made after the date the depository institution secures the amount under
267 Subsection

267 (1):

268 (b) in an amount that in total does not exceed the amount of the liability
269 stated on the

269 notice of levy described in Section [59-1-1705](#); and

270 (c) until the earlier of:

271 (i) the date the commission provides notice to the depository institution in
272 accordance

272 with Section [59-1-1705](#) that the commission has released the levy;

273 (ii) the date the commission provides notice to the depository institution in
274 accordance

274 with Section [59-1-1705](#) that the delinquent taxpayer has satisfied the liability;
or

275 (iii) the date the depository institution makes the final subsequent release in
accordance

276 with Section [59-1-1709](#) of amounts deposited into the account of the
delinquent taxpayer.

277 (3) For purposes of Subsections (1) and (2), a depository institution shall
secure an

278 amount subject to levy regardless of whether a person other than the
delinquent taxpayer has

279 access to the account or is an account holder.

280 Section 9. Section **59-1-1707** is enacted to read:

281 **59-1-1707. Commission to send notice to delinquent taxpayer.**

282 (1) The commission shall, within three business days after the date the
commission

283 provides a notice of levy described in Section [59-1-1705](#) to a depository
institution, notify a

284 delinquent taxpayer that the commission has issued the notice of levy to the
depository

285 institution.

286 (2) The notice described in Subsection (1) shall:

287 (a) state the amount subject to levy as stated in the notice of levy described
in Section

288 [59-1-1705](#);

289 (b) notify the delinquent taxpayer that the depository institution is required
to secure

290 the amount subject to levy in accordance with Section [59-1-1706](#);

291 (c) identify each account subject to levy at the depository institution; and

292 (d) describe the actions a delinquent taxpayer may take to:

293 (i) satisfy the liability; or

294 (ii) resolve an issue as to whether the commission has the authority to
receive from a

295 depository institution the amount subject to levy at the depository institution.

296 Section 10. Section **59-1-1708** is enacted to read:

297 **59-1-1708. Commission to determine portion of an amount subject to**
levy that the

298 **commission may receive from a depository institution -- Process for**
resolution of dispute

299 **-- Extension of certain time periods -- District court action -- Rulemaking**
authority.

300 (1) In accordance with this section, the commission shall determine the
portion of the

301 amount subject to a levy under this part that the commission may receive from a depository

302 institution.

303 (2) The time period for making the determination required by Subsection (1):

304 (a) begins on the date the commission provides a notice of levy described in Section

305 59-1-1705 to a depository institution; and

306 (b) ends on the first business day after a 21-day period beginning on the date described

307 in Subsection (2)(a).

308 (3) The commission shall provide notice to a depository institution, no later than the

309 last day of the time period described in Subsection (2), of the portion of the amount subject to a

310 levy under this part that the commission may receive from the depository institution.

311 (4) The portion of an amount subject to levy under this part that the commission may

312 receive from a depository institution may not exceed the lesser of:

313 (a) the amount of the liability that is subject to the levy;

314 (b) the amount the commission would have been able to receive had the commission

315 obtained a writ of garnishment; or

316 (c) the balance of the delinquent taxpayer's account that a depository institution has

317 secured or will secure in accordance with Section 59-1-1706.

318 (5) As part of the determination required by Subsection (1), the commission shall allow

319 a delinquent taxpayer to communicate with and provide information to the commission.

320 (6) The commission shall order a conference between the commission and the

321 delinquent taxpayer in accordance with Section 63G-4-102 if:

322 (a) the commission finds that there is a dispute as to an issue related to the determination required by Subsection (1); or

324 (b) a delinquent taxpayer requests the conference to address a dispute as to an issue

325 related to the determination required by Subsection (1).

326 (7) The time period beginning on the date the commission orders a conference in

327 accordance with Subsection (6) and ending on the date the conference

adjourns may not be

328 included in calculating a time period:

329 (a) during which a levy is valid;

330 (b) during which a depository institution is required to secure an amount in accordance

331 with Section [59-1-1706](#);

332 (c) for making the determination required by Subsection (1); or

333 (d) for requiring a depository institution to release a portion of an amount to the

334 commission in accordance with Section [59-1-1709](#).

335 (8) If a conference described in Subsection (6) does not result in the resolution of the

336 issues related to the determination required by Subsection (1), a delinquent taxpayer may file

337 an action in district court:

338 (a) within 14 days after the date a conference described in Subsection (6) adjourns; and

339 (b) in the district court located in the county of residence or principal place of business

340 of the delinquent taxpayer.

341 (9) (a) Subject to Subsection (9)(b), the time period beginning on the date a delinquent

342 taxpayer files an action in accordance with Subsection (8) and ending on the date the action

343 becomes final may not be included in calculating a time period:

344 (i) during which a levy is valid;

345 (ii) during which a depository institution is required to secure an amount in accordance

346 with Section [59-1-1706](#);

347 (iii) for making the determination required by Subsection (1); or

348 (iv) for requiring a depository institution to release a portion of an amount to the

349 commission in accordance with Section [59-1-1709](#).

350 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

351 commission may make rules for determining when an action under this section becomes final.

352 Section 11. Section **59-1-1709** is enacted to read:

353 **59-1-1709. Depository institution to release portion of amount subject to levy.**

354 (1) Subject to the other provisions of this section, a depository institution shall release

355 the portion of the amount subject to a levy under this part that the commission determines the

356 commission may receive in accordance with Section [59-1-1708](#) from the depository institution.

357 (2) On the first business day after the date the commission provides the notice

358 described in Subsection [59-1-1708](#)(3) to the depository institution, the depository institution

359 shall make an initial release of the lesser of the following:

360 (a) the portion of the amount the commission determines the commission may receive

361 in accordance with Section [59-1-1708](#) from the depository institution; or

362 (b) the balance of the delinquent taxpayer's account as of the first business day after the

363 date the commission provides the notice described in Subsection [59-1-1708](#)(3) to the

364 depository institution.

365 (3) (a) Subject to Subsections (3)(b) and (c), if, as of the first business day after the

366 date the commission provides the notice described in Subsection [59-1-1708](#)(3) to a depository

367 institution, the balance of the delinquent taxpayer's account is less than the portion of the

368 amount the commission determines the commission may receive in accordance with Section

369 [59-1-1708](#) from the depository institution, the depository institution shall make one or more

370 subsequent releases to the commission of deposits made into the delinquent taxpayer's account:

371 (i) after the first business day after the date the commission provides the notice

372 described in Subsection [59-1-1708](#)(3) to the depository institution; and

373 (ii) in an amount not to exceed the portion of the amount the commission determines

374 the commission may receive in accordance with Section [59-1-1708](#) from the depository

375 institution.

376 (b) A depository institution required by Subsection (3)(a) to make a subsequent release

377 of a deposit shall make the release no later than seven days after the date the deposit is made

378 into the delinquent taxpayer's account.

379 (c) A depository institution may not make a subsequent release described in
380 Subsection

381 (3)(a) of a deposit to the commission if the deposit is made:

382 (i) after the date the commission provides notice to the depository institution
383 in

384 accordance with Section [59-1-1705](#) that the commission has released the levy;

385 (ii) after the date the commission provides notice to the depository
386 institution in

387 accordance with Section [59-1-1705](#) that the delinquent taxpayer has satisfied
388 the liability; or

389 (iii) more than 60 days after the date the commission provides the notice of
390 levy

391 described in Section [59-1-1705](#) to the depository institution.

392 Section 12. Section **59-1-1710** is enacted to read:

393 **59-1-1710. Limitations on commission authority to levy.**

394 (1) During the time period that a levy the commission imposes on the
395 account of a

396 delinquent taxpayer is valid, the commission may not impose another levy on
397 that account.

398 (2) The commission may impose a levy in accordance with the procedures
399 and

400 requirements of this part on an account subject to a previous levy under this
401 part if that

402 previous levy is no longer valid.

403 Section 13. Section **59-1-1711** is enacted to read:

404 **59-1-1711. Commission requirement to pay a reimbursement to a**
405 **depository**

406 **institution.**

407 (1) Subject to Subsection (2), the commission shall, in accordance with the
408 agreement

409 required by Section [59-1-1703](#), pay a reasonable reimbursement to a
410 depository institution:

411 (a) as determined by the commission:

412 (b) to comply with the requirements of this part; and

413 (c) that does not exceed the costs a depository institution incurs to comply
414 with this

415 part.

416 (2) If a depository institution secures an amount subject to levy in
417 accordance with

418 Section [59-1-1706](#), the commission shall pay the depository institution \$10 to
419 secure the

420 amount.

- 406 Section 14. Section **59-1-1712** is enacted to read:
407 **59-1-1712. Amount levied or released in error -- Rulemaking authority.**
408 (1) If the commission levies an amount in error, the commission shall:
409 (a) pay the cost of a depository institution charge incurred as a result of the
410 levy; or
411 (b) if a person other than the commission pays the depository institution
412 charge,
413 reimburse the person for the depository institution charge incurred as a result
414 of the levy.
415 (2) If a depository institution releases an amount in an account holder's
416 account to the
417 commission in error, the commission shall return the amount to the depository
418 institution by
419 electronic means for deposit into the account holder's account.
420 (3) In accordance with Title 63G, Chapter 3, Utah Administrative
421 Rulemaking Act, the
422 commission may make rules prescribing:
423 (a) what constitutes levying or releasing an amount in error; and
424 (b) the depository institution charges the commission shall pay.
425 Section 15. Section **59-1-1713** is enacted to read:
426 **59-1-1713. Limits on a depository institution's authority to disclose or**
427 **provide**
428 **notice -- Depository institution authority to provide information.**
429 (1) Except as provided in Subsection (2), a depository institution may not
430 disclose or
431 provide notice to an account holder at the depository institution that the
432 depository institution:
433 (a) provided information to the commission or the commission provided
434 information to
435 the depository institution in relation to the account holder or the account
436 holder's account in
437 accordance with this part; or
438 (b) took an action in relation to the account holder or the account holder's
439 account in
440 accordance with this part.
441 (2) A depository institution may provide information to an account holder
442 describing
443 the depository institution's duties under this part if the information the
444 depository institution

445 provides does not identify that the depository institution:
446 (a) provides or has provided information to the commission in relation to a
447 particular

- 433 account holder or account holder's account in accordance with this part; or
434 (b) takes or has taken an action in relation to a particular account holder or
435 account
435 holder's account in accordance with this part.
436 Section 16. Section **59-1-1714** is enacted to read:
437 **59-1-1714. Limits on depository institution liability.**
438 A depository institution is not liable to a person for the following if the
439 depository
439 institution acts in good faith:
440 (1) providing or failing to provide information; or
441 (2) taking or failing to take an action.
442 Section 17. Section **59-1-1715** is enacted to read:
443 **59-1-1715. Confidentiality of information.**
444 Except for the exchange of information between the commission and a
445 depository
445 institution that is necessary to meet the requirements of this part, information
446 the commission
446 obtains from a depository institution is subject to Section [59-1-403](#) as if the
447 information had
447 been gained from a return filed with the commission.
448 Section 18. **Effective date.**
449 This bill takes effect on January 1, 2017.
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Legislative Review Note
Office of Legislative Research and General Counsel

Utah Open and Public Meetings Act The Basics



MICHAEL CRAGUN

Annual Training



THE PRESIDING OFFICER OF THE PUBLIC BODY SHALL ENSURE THAT THE MEMBERS OF THE PUBLIC BODY ARE PROVIDED WITH ANNUAL TRAINING ON THE REQUIREMENTS OF THIS CHAPTER.

Public Policy Declaration



THE LEGISLATURE FINDS AND DECLARES THAT THE STATE, ITS AGENCIES AND POLITICAL SUBDIVISIONS, EXIST TO AID IN THE CONDUCT OF THE PEOPLE'S BUSINESS.

IT IS THE INTENT OF THE LEGISLATURE THAT THE STATE, ITS AGENCIES, AND ITS POLITICAL SUBDIVISIONS: TAKE THEIR ACTIONS OPENLY; AND CONDUCT THEIR DELIBERATIONS OPENLY.

Open Meetings



A MEETING IS OPEN TO THE PUBLIC UNLESS
CLOSED . . .

Open Meetings



A MEETING IS OPEN TO THE PUBLIC UNLESS
CLOSED . . .

Meeting . . .



. . . THE CONVENING OF A PUBLIC BODY, WITH A
QUORUM PRESENT . . .

Meeting . . .



. . . THE CONVENING OF A **PUBLIC BODY**, WITH A
QUORUM PRESENT . . .

Public Body . . .



. . . ANY ADMINISTRATIVE, ADVISORY, EXECUTIVE, OR LEGISLATIVE BODY OF THE STATE OR ITS POLITICAL SUBDIVISIONS THAT: IS CREATED BY THE UTAH CONSTITUTION, STATUTE, RULE, ORDINANCE, OR RESOLUTION; CONSISTS OF TWO OR MORE PERSONS; EXPENDS, DISBURSES, OR IS SUPPORTED IN WHOLE OR IN PART BY TAX REVENUE; AND IS VESTED WITH THE AUTHORITY TO MAKE DECISIONS REGARDING THE PUBLIC'S BUSINESS.

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Meeting . . .



. . . THE CONVENING OF A PUBLIC BODY, WITH A
QUORUM PRESENT . . .

Quorum . . .



. . . A SIMPLE MAJORITY OF THE MEMBERSHIP OF
A PUBLIC BODY, UNLESS OTHERWISE DEFINED
BY APPLICABLE LAW.

Meeting . . .



. . . THE **CONVENING** OF A PUBLIC BODY, WITH A
QUORUM PRESENT . . .

Convening . . .



. . . THE CALLING OF A MEETING OF A PUBLIC BODY BY A PERSON AUTHORIZED TO DO SO FOR THE EXPRESS PURPOSE OF DISCUSSING OR ACTING UPON A SUBJECT OVER WHICH THAT PUBLIC BODY HAS JURISDICTION OR ADVISORY POWER.

Convening . . .



. . . THE CALLING OF A MEETING OF A PUBLIC BODY BY A PERSON AUTHORIZED TO DO SO FOR THE EXPRESS PURPOSE OF **DISCUSSING** OR ACTING UPON A SUBJECT OVER WHICH THAT PUBLIC BODY HAS JURISDICTION OR ADVISORY POWER.

Group Messaging



NOTHING IN THIS CHAPTER SHALL BE CONSTRUED TO RESTRICT A MEMBER OF A PUBLIC BODY FROM TRANSMITTING AN ELECTRONIC MESSAGE TO OTHER MEMBERS OF THE PUBLIC BODY AT A TIME WHEN THE PUBLIC BODY IS NOT CONVENED IN AN OPEN MEETING.



Open Meeting Checklist

Notice

- Annual notice of regular meeting schedule
- At least 24 hours notice of the meeting date, time place and agenda posted in office, posted on Utah Public Notice website and sent to newspaper



Open Meeting Checklist

Notice

Agenda

- Agenda identifies topics for consideration with reasonable specificity
- May discuss topics not on the agenda when raised by the public but may not take final action



Open Meeting Checklist

- Notice
- Agenda
- Recording

- Recording required and must be posted on Utah Public Notice website within three days of the meeting



Open Meeting Checklist

- ✓ Notice
- ✓ Agenda
- ✓ Recording
- ✓ Minutes

- Any electronic information presented by any individual at the meeting must be included in the official record of the meeting
- Pending Minutes
 - Must be available within 30 days of the meeting
 - Notice that pending minutes are subject to approval and may change
- Approved Minutes
 - Voted upon in an open meeting
 - Official record of the meeting
 - Posted to Utah Public Notice website within three days of approval along with any meeting materials

Electronic Meetings



A PUBLIC BODY MAY NOT HOLD AN ELECTRONIC MEETING UNLESS THE PUBLIC BODY HAS ADOPTED A RESOLUTION, RULE, OR ORDINANCE GOVERNING THE USE OF ELECTRONIC MEETINGS

Closed meetings



PUBLIC BODIES **MAY** CLOSE A MEETING TO
DISCUSS CERTAIN ISSUES



Closed Meeting Checklist

Permitted Topics

- Character, professional competence, or physical or mental health of an individual
- Collective bargaining
- Pending or reasonably imminent litigation
- Purchase, exchange or lease of real property
- Sale of real property
- Deployment of security personnel, devices, or systems
- Investigation of allegations of criminal misconduct



Closed Meeting Checklist

Permitted Topics

Prohibited Topics

- Interview a person applying to fill an elected position
- Discuss filling a midterm vacancy or temporary absence
- Discuss the character, professional competence, or physical or mental health of a person under consideration to fill a midterm vacancy or temporary absence



Closed Meeting Checklist

- Permitted Topics
- Prohibited Topics
- Before Closing

- Start in a properly noticed open meeting with a quorum present
- Enter reason(s) for and location of meeting and meeting closing votes of members by name into open meeting minutes
- At least 2/3 of members present must approve closed meeting
- Announce in open meeting reason(s) for and location of closed meeting



Closed Meeting Checklist

- ☑ Permitted Topics
- ☑ Prohibited Topics
- ☑ Before Closing
- ☑ While Closed

- Approve no actions during the closed meeting
- Take minutes of closed meeting (optional)
- **Must record closed meeting except when discussing:**
 - Character, professional competence, or physical or mental health of an individual
 - Deployment of security personnel, devices, or systems



Closed Meeting Checklist

- Permitted Topics
- Prohibited Topics
- Before Closing
- While Closed
- Afterward

- Return to open meeting to take any action
- Chair signs sworn statement that body discussed only:
 - Character, professional competence, or physical or mental health of an individual
 - Deployment of security personnel, devices, or systems

Meeting Exclusions



- CHANCE GATHERING
- SOCIAL GATHERING
- BODY W/EXECUTIVE AND LEGISLATIVE POWERS
- USTC: CONFIDENTIAL TAX MATTERS

Enforcement



- REMOVAL OF DISRUPTIVE PERSON PERMITTED
- SUIT TO VOID FINAL ACTION
- SUIT TO COMPEL COMPLIANCE
- IN CAMERA REVIEW OF CLOSED MEETING
- CRIMINAL: CLOSED MEETING VIOLATION

