

# Third and Fourth Special Session Legislation

## A Summary of Enacted Legislation

The Office of Legislative Research and General Counsel (OLRGC) has compiled summaries of legislation enacted during the Third Special Session and the Fourth Special Session of the Sixty-Third Utah Legislature. These summaries are intended to be general in nature. To read the legislation in its entirety, click on the link provided in this document or visit <https://le.utah.gov>.

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## Legislation Enacted During the Third Special Session

April 16-23, 2020

### 1st Substitute H.B. 3001, Bond Amendments

This bill activates the Working Rainy Day Fund by removing the 50% cap on borrowing. It allows the State Treasurer to execute bonds already authorized in statute; the state can use bond proceeds for highway projects and the state prison and free up cash that can be used to plug future budget holes.

### 1st Substitute H.B. 3002, Appropriations Revisions

This bill makes the following technical budget changes:

- Changes statute to keep enhanced Federal Medicaid Assistance Program (FMAP) savings from lapsing to the Medicaid Restricted Account. Lower FMAP rates will reduce the state's share of Medicaid costs, but the difference must stay in the Medicaid program.
- Waives the deadline for the Division of Finance to enter in the fiscal year 2021 budget. The normal deadline is May 15 but the late influx of federal funds and changes being made to non-lapsing and fund balances will make that deadline impossible to meet.

- Waives the requirement for state agencies appearing before the Board of Examiners whose expenses exceed budget because the Legislature removed non-lapsing balances under S.B. 3001.

### H.B. 3003, Income Tax Revisions

To address issues related to the COVID-19 pandemic, this bill:

- Modifies deadlines for filing income tax returns to account for the postponement of the federal filing deadline to July 15, 2020 and aligns the time period for an extension to file an income tax return with the federal extension period.
- Changes the due dates for estimated corporate income tax payments to align with due dates for federal income tax.
- Changes the deadline for payment of state income taxes to the federal payment date for the 2019 tax year.

The bill also:

- Changes the due date for an installment payment of the tax on deferred foreign income ("repatriated" income as a result of the 2017 federal tax reform) from the due date of the return with extensions to the due date before any extensions.
- Clarifies the requirements for a pass-through entity to receive an extension for filing a return.
- Allows an individual taxpayer to subtract a distribution from a qualified retirement plan from adjusted gross income if the taxpayer paid tax on the contribution to the qualified retirement plan to another state, D.C., or a U.S. possession.

### 2nd Substitute H.B. 3005, Pandemic Response and Consultation Act

This bill requires the Governor to notify and consult with certain legislative leaders before taking executive action in response to an epidemic or pandemic emergency. The Governor is exempt from these requirements if the epidemic or pandemic

poses an imminent threat of loss of life that can be mitigated by executive action.

The bill also allows the Legislature, through a joint resolution, to overturn or terminate an executive action taken by the Governor during a state of emergency. This provision is not limited to a pandemic but applies to any type of emergency.

### [1st Substitute H.B. 3006, Election Amendments](#)

- This bill makes temporary changes to the election code that apply only to the 2020 regular primary election. For the 2020 regular primary election, the bill:
  - Establishes a process for a county to qualify as a mobile voting county to allow limited drive-up voting on election day, and except for mobile voting counties and accessible options for voters with disabilities, requires the primary election to be conducted entirely by mail with no polling places on election day, no in-person early voting, no in-person voter registration, and no voter registration by provisional ballot.
  - Changes certain deadlines and provides for the dissemination of information about the changes to the primary election.
  - Requires the lieutenant governor's office to issue protocols to protect the health and safety of voters and government employees in the conduct of the election and grants the lieutenant governor's office some authority to make additional changes as needed.

### [1st Substitute H.B. 3007, COVID-19 Workers' Compensation Amendments for First Responders](#)

This bill creates a rebuttable presumption that if an emergency responder or health care provider contracts the coronavirus, that the individual did so on the job and is thus permitted to file a workers' compensation claim.

### [H.C.R. 301, Concurrent Resolution Honoring Healthcare Workers and Others](#)

This resolution acknowledges the disruptions caused by the spread of Coronavirus disease 2019 (COVID-19) and expresses gratitude on behalf of the Legislature and the Governor to the individuals and organizations responding to the pandemic. This resolution specifically highlights the efforts of healthcare workers, certain state employees, information technology workers, other workers providing essential services, and religious organizations for their dedication to combating and responding to the unprecedented challenges facing the state and the world as a result of the spread of COVID-19.

### [H.J.R. 301, Joint Resolution Urging Fiscal Responsibility](#)

This resolution urges government entities to cautiously spend remaining fiscal year 2020 resources and avoid making commitments that will increase spending in fiscal year 2021. It recommends government entities use 2020 General Session base budget bills as a baseline when making initial allocations for fiscal year 2021.

### [H.J.R. 302, Joint Resolution Extending the State of Emergency due to 5.7 Magnitude Earthquake](#)

The Governor declared a state of emergency on March 20, 2020 due to the 5.7 magnitude earthquake that occurred near Magna, Utah. This joint resolution extends the state of emergency to May 18, 2020, which allows for the continued use of state, federal, and interstate resources to address damages. The extension also permits the state to request and receive mutual aid from other states through the Emergency Management Assistance Compact.

### [S.B. 3001, Pandemic Response Appropriations Adjustments](#)

To balance the budget between fiscal years and match the income tax filing delay, this bill temporarily moves funds committed to capital projects that are not immediately needed, and temporarily moves non-lapsing fiscal year 2020 balances and restores them in fiscal year 2021. The

bill further appropriates targeted portions of federal stimulus funds provided in the Families First Coronavirus Relief Act and the CARES Act for specific purposes. Finally, it corrects the source of financing for certain public health-related appropriations.

### **S.B. 3002, Emergency Health Care Access and Immunity Amendments**

This bill expands the Health Care Providers Immunity from Liability Act and the Utah Right to Try Act to address the COVID-19 pandemic and any future declared major public health emergency, defined as “a state of emergency declared by the governor...as the result of...an imminent threat of an illness or health condition that...poses a high probability of a large number of deaths or serious injury.” The bill, during a declared major public health emergency:

- Provides immunity for a health care provider caring for a pandemic patient unless the provider is grossly negligent or malicious.
- Allows a health care provider to practice outside the provider’s usual education, training, or experience but still within the scope of the provider’s license.
- Provides immunity for providing a “qualified treatment” (off-label use of an FDA approved drug) unless the provider is grossly negligent or malicious (but requires the provider to follow applicable federal guidance if guidance has been issued).
- Expands the Utah Right to Try Act to allow the use of an investigational drug or device (that has passed FDA’s Phase 1 safety tests, but not the subsequent efficacy tests) for treatment of the pandemic to the fullest extent permitted under federal law.
- Limits liability for providers and hospitals treating patients with the investigational drug or device.
- Does not require a provider or insurer to provide or cover the investigational drug or device, but also does not prohibit that.
- Does not require an insurer to cover treatment for harms caused by the investigational drug or device but does

require coverage of conditions that existed before the investigational treatment, and palliative or hospice care if the treatment is unsuccessful.

### **S.B. 3003, Unemployment Benefits Amendments**

Under the CARES Act, states without a waiting week, or that suspend or waive any state law regarding a waiting week, receive 100% federal funding for benefits paid to unemployed applicants for the first week of their unemployment. Utah currently has a statutory one-week waiting period before an unemployed applicant may receive unemployment benefits. This bill authorizes the Division of Workforce Services to waive the one-week waiting period and provide an unemployed individual with a benefit for that week if:

- a state of emergency has been declared by the President of the United States or the governor that is in effect for that week; or
- the federal government has agreed to pay for the benefit.

### **2nd Substitute S.B. 3004, COVID-19 Health and Economic Response Act**

This bill creates the Public Health and Economic Emergency Commission (the commission) to advise and make recommendations to the governor regarding the state’s response to the COVID-19 emergency, including identifying economic and health guidance levels to assess risk. The bill requires the commission to present a plan to the governor on or before April 22, 2020, that provides for the state to operate under an economic and health guidance level that is immediately below the highest risk economic and health guidance level, and for the governor to either implement the plan or issue a public statement explaining the decision not to implement the plan. The bill also provides that if the governor adopts a recommendation made by the commission, the adopted recommendation supersedes any portion of a local ordinance or order that is more restrictive than or in direct conflict with the adopted recommendation unless the governor allows an exception.

### 1st Substitute S.B. 3005, Education Modifications

To address statutory requirements impacted by school closures in the 2019-20 school year, this bill:

- Waives requirements to administer assessments during the 2019-2020 school year that were not administered before school closures.
- Directs the State Board of Education (state board) to report to the Education Interim Committee by October 2020 on the state board's ability to comply with requirements impacted by the assessment waiver, including accountability measures and reporting requirements.
- Allows the state board to fulfill a requirement impacted by the assessment waiver by including it in the report to the Education Interim Committee.
- Waives the requirement that school districts conduct employee evaluations for the 2019-2020 school year.
- Waives the requirement that a student pass a basic civics test as a condition for graduation for certain students graduating from high school who have not yet completed the basic civics test.

### 2nd Substitute S.B. 3006, Covid-19 Financial Relief Funding

This bill assists individuals, businesses, and agriculture operations that have been financially harmed by the coronavirus' economic impact.

- \$20 million is funded within the Department of Workforce Services for a rent payment assistance program for individuals.
- Up to \$40 million is used to create a commercial rent payment assistance program within the Governor's Office of Economic Development.
- Additionally, a \$20 million grant program for agriculture operations is created within the Department of Agriculture and Food. Term details and program qualifications are outlined in the bill.

### S.B. 3007, COVID-19 Provisions

This bill provides a person immunity from civil liability for damages or an injury resulting from exposure of an individual to a contagious virus, whether it be on the premises owned or operated by the person or during an activity managed by the person. This bill also addresses the relationship of this immunity to other state or federal laws. It does not apply to willful misconduct or reckless or intentional infliction of harm.

### S.J.R. 301, Joint Resolution Approving Acceptance of Federal Funds in Response to COVID-19

Under state law, the Legislature must pass a resolution to accept federal funds in excess of \$10 million. This resolution approves acceptance of federal CARES Act and other stimulus grants.

## **Legislation Enacted During the Fourth Special Session**

April 23, 2020

### H.B. 4001, Pandemic Response Federal Funds Appropriations

In response to the current global pandemic, Congress passed, and the President signed: the Coronavirus Preparedness and Response Supplemental Appropriations Act; the Families First Coronavirus Response Act; and the Coronavirus Aid, Relief, and Economic Security Act. On April 17, 2020, the Legislature passed [S.J.R. 301, Joint Resolution Approving Acceptance of Federal Funds in Response to COVID-19](#), and [S.B. 3001, Pandemic Response Appropriations Adjustments](#). Because the Utah Constitution limits legislatively called special sessions to appropriations of less than 1% of the prior year budget, S.B. 3001 authorized agencies to expend only a small portion of the accepted federal funds.

This H.B. 4001 appropriates the remaining federal funds so that agencies can execute the federal programs for which these funds are intended. The

bill also provides federal funds for implementation of bills passed in the 2020 Third Special Session.

#### **H.B. 4002, Rail Fuel Sales Tax Amendments**

This bill repeals the sales and use tax exemption for the sale of fuel to a rail carrier for use in a locomotive engine, subjecting such sales to a 4.85% state sales tax rate. Revenue generated from these transactions will be deposited into the General Fund.

The bill also creates the Rail Transportation Restricted Account within the Transit Transportation Investment Fund. The restricted account will receive an ongoing appropriation from the General Fund in an amount approximate to the revenue generated from the state sales tax on sales of fuel to rail carriers for use in locomotive engines. UDOT must use the appropriated funds as follows:

- 10% awarded as grants to governmental or nonprofit entities to improve safety at railroad crossings on class A, B, or C roads.
- 10% to pay the costs of performing environmental impact studies or debt service in connection with construction, reconstruction, or renovation projects related to railroad crossings on class A, B, or C roads.
- The remaining funds to pay the costs of construction, reconstruction, or renovation projects related to railroad crossings on class A, B, or C roads, including debt services for those projects.

#### **1st Substitute H.B. 4003, Special Needs Opportunity Scholarship Program**

This bill creates a scholarship program for students with a documented disability (IEP or other determination) to pay for educational services from a private provider. The scholarship amount is on a sliding scale based on household income and the value of the weighted pupil unit. Eligible students apply to an approved, nonprofit scholarship granting organization (SGO). Taxpayers fund the SGO through donations and receive a tax credit for 100% of their contribution to the SGO. Approved educational services include: tuition to an approved private school; an educational therapy from a licensed provider; textbooks or instructional materials; or costs for an online course.

The bill also appropriates \$60,000 to the state board for program administration and directs the Public Education Subcommittee to study the feasibility of combining this program and the Carson Smith Scholarship.

#### **H.B. 4004, Bar Establishment License Renewal Amendments**

Due to the economic impact of the coronavirus, this bill permits a bar licensee, under certain conditions, to delay making their renewal fee payment until August 31, 2020.