

## JUDICIAL COUNCIL MEETING

### AGENDA

**Monday, October 28, 2013**

**Judicial Council Room**

**Matheson Courthouse**

**Salt Lake City, Utah**

*Chief Justice Matthew B. Durrant, Presiding*

1. 9:00 a.m. Welcome & Approval of Minutes . . . . Chief Justice Matthew B. Durrant  
(Tab 1 - Action)
2. 9:05 a.m. New Member – Oath of Office. . . . . Chief Justice Matthew B. Durrant
3. 9:10 a.m. Chair’s Report. . . . . Chief Justice Matthew B. Durrant
4. 9:20 a.m. Administrator’s Report. . . . . Daniel J. Becker
5. 9:35 a.m. Reports: Management Committee. . . . Chief Justice Matthew B. Durrant  
Liaison Committee. . . . Justice Jill Parrish  
Policy and Planning . . . . Judge Greg Orme  
Bar Commission. . . . John Lund, esq.  
(Tab 2 - Information)
6. 9:45 a.m. Council Committee Appointments. . . . Chief Justice Matthew B. Durrant  
(Tab 3 - Action)
7. 9:50 a.m. 2014 Council Calendar Approval. . . . . Ray Wahl  
(Tab 4 - Action)
8. 9:55 a.m. 2013 Access and Fairness Survey Results. . . . . Joanne Vandestreek  
(Information)
9. 10:15 a.m. Legislative Update and Interim Highlights. . . . . Rick Schwermer  
(Tab 5 - Information)
- 10:30 a.m. Break
10. 10:40 a.m. Juvenile Fine and Bail Schedule. . . . . Dawn Marie Rubio  
(Tab 6 - Action)
11. 10:55 a.m. GAL Oversight Committee Update. . . . . Liz Knight  
(Tab 7 - Information)

12. 11:15 a.m. Board of District Court Judges Recommendation for  
Mandatory E-Filing of Criminal Cases. . . . . Debra Moore  
(Tab 8 - Action)
13. 11:30 a.m. Board of District Court Judges Update. . . . . Judge Kevin Allen  
(Information) Debra Moore
14. 11:50 a.m. Certification of Senior Justice Court Judges. . . . . Tim Shea  
(Tab 9 - Action) Alison Adams-Perlac
- 12:00 p.m. Lunch
15. 12:30 p.m. Guardianship and Conservatorship Signature Program. . . . . Tim Shea  
(Tab 10 - Information)
16. 12:45 p.m. Certification of Minimum Performance Standards  
for Judges up for Retention in 2014. . . . . Tim Shea  
(Action) Alison Adams-Perlac
17. 1:00 p.m. Executive Session
18. 2:00 p.m. Adjourn

#### **Consent Calendar**

*The consent items in this section are approved without discussion if no objection has been raised with the Admin. Office (578-3806) or with a Council member by the scheduled Council meeting or with the Chair of the Council during the scheduled Council meeting.*

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|--|---|
| 1. Committee Appointments<br>(Tab 11)                  | Alyn Lunceford<br>Tom Langhorne<br>Ron Bowmaster<br>Debra Moore |
| 2. Grant Approval<br>(Tab 12)                          | Ron Bowmaster   |
| 3. Utah State Retirement Board Appointment<br>(Tab 13) | Daniel J. Becker  |

# TAB 1

# **JUDICIAL COUNCIL MEETING**

## **Minutes**

**Tuesday, September 10, 2013**

**Snowbird Resort**

**Snowbird, UT**

**Chief Justice Matthew B. Durrant, Presiding**

### **ATTENDEES:**

Chief Justice Matthew B. Durrant  
Hon. Kimberly K. Hornak, vice chair  
Justice Jill Parrish  
Hon. Glen Dawson  
Hon. George Harmond  
Hon. Paul Maughan  
Hon. Brendon McCullagh  
Hon. David Mortensen  
Hon. Reed Parkin  
Hon. John Sandberg  
Hon. Randall Skanchy  
Hon. Larry Steele  
John Lund, esq.

### **EXCUSED:**

Hon. Gregory Orme

### **STAFF PRESENT:**

Daniel J. Becker  
Ray Wahl  
Jody Gonzales  
Debra Moore  
Rick Schwermer  
Tim Shea  
Alison Adams-Perlac  
Ron Bowmaster  
Derek Byrne

### **GUESTS:**

Judge Michele Christiansen  
Judge Carolyn McHugh  
Joanne Slotnik, JPEC

#### **1. WELCOME AND APPROVAL OF MINUTES: (Chief Justice Matthew B. Durrant)**

Chief Justice Durrant welcomed everyone to the meeting.

**Motion:** Judge Maughan moved to approve the minutes from the August 16, 2013 Judicial Council meeting. Judge Steele seconded the motion, and it passed unanimously.

Chief Justice Durrant recognized the outgoing members for their service and contribution to the Council. The outgoing members include: 1) Judge Larry Steele, and 2) Judge Brendon McCullagh.

Chief Justice Durrant swore in Judge Skanchy as a member of the Council.

#### **2. CHAIR'S REPORT: (Chief Justice Matthew B. Durrant)**

Chief Justice Durrant had nothing new to report.

### **3. ADMINISTRATOR'S REPORT: (Daniel J. Becker)**

Mr. Becker reported on the following items:

State Supreme Courts. A book depicting the State Supreme Courts was circulated amongst the Council members for viewing. It will be placed in the Council Room at the Matheson Courthouse for further viewing.

Legislative Retirement Committee. The Legislative Retirement Committee will meet on September 25 with judicial retirement on their agenda for discussion. Chief Justice Durrant and Mr. Becker are on the agenda to address the importance of the present system.

Drug Court Grant. A drug court grant in the amount of \$1.4 million has been received by the Department of Human Services (joint application by Utah Courts and DHS) to be used over a three-year period. Discussion of how the funding will be implemented will take place at a later date.

Judicial Vacancies. The following judgeship appointments are pending confirmation: 1) Mr. Brian Cannell, 1<sup>st</sup> District Juvenile Court; 2) Commissioner Catherine Conklin, Second District Court; 3) Mr. Samuel Chiara, Eighth District Court; 4) Mr. Keith Eddington, Eighth District Juvenile Court; and 5) Mr. Ryan Evershed, Eighth District Juvenile Court.

The following judicial vacancies are pending appointment by the Governor: 1) Second District Juvenile Court vacancy replacing Judge Paul Iwasaki, 2) Fourth District Juvenile Court vacancy replacing Judge Kay Lindsay, and 3) Court of Appeals vacancy replacing Judge Bill Thorne.

### **4. COMMITTEE REPORTS:**

#### ***Management Committee Report:***

Chief Justice Durrant reported that the Management Committee meeting minutes accurately reflect the issues discussed. The items needing to be addressed by the Council have been placed on today's agenda.

#### ***Liaison Committee Report:***

Justice Parrish reported on the following items:

The Liaison Committee met prior to the Council meeting to review the proposed amendment to the Citation Section of the Code which would require law enforcement to note on the citation whether the offense is a domestic violence citation or not.

Feedback on the proposed amendment will be sought by the statewide association of prosecutors.

#### ***Policy and Planning Meeting:***

Mr. Shea reported on the following items:

The Policy and Planning Committee met on Friday, September 6. The following was highlighted in his update: 1) reviewed guidelines for paying interpreters, 2) rules for final action are included on the agenda later in the meeting, 3) discussion took place regarding a request for an amendment relative to SB 281 – Debt Collection Information Amendments – to allow clerks to use judges' signature stamps in matters of disclosing information for debt collection by the Department of Workforce services.

***Bar Commission Report:***

Mr. Lund reported on the following:

The Bar Commission held their annual retreat at the end of August.

The 2014 Bar's Summer Conference will be held in Snowmass, Colorado.

A special election will be held in the Third District to replace Mr. Jim Gilson.

Ms. Joanne Slotnik and Mr. John Ashton, Judicial Performance Evaluation Commission (JPEC) members, presented information on the work of JPEC to the Bar.

Mr. Lund reported that the Bar Commission would be looking at the practice of law in the next 5-10 years as one of their priorities for the coming year.

**5. LEGISLATIVE UPDATE AND INTERIM HIGHLIGHTS: (Rick Schwermer)**

Mr. Schwermer provided a Legislative Update for the Council.

An interim session was not held in August. Mr. Schwermer highlighted the following in his update: 1) a legislator is considering resurrecting circuit courts to handle misdemeanors and domestic cases, and the justice courts would continue to handle infractions and local ordinances; 2) EEOC Appropriations Committee met at the Ogden Courthouse; and 3) the Prison Relocation and Development Authority (PRADA) met with Mr. Rick Schwermer, Ms Debra Moore, and Judge Kevin Allen making presentations.

Mr. Becker introduced Alison Adams-Perlac, the new AOC staff attorney and former juvenile court law clerk. Ms. Emily Iwasaki has been selected to fill the juvenile court law clerk vacancy and will begin working for the courts on Monday, September 16.

**6. FY 2014 BUDGET ADJUSTMENTS: (Daniel J. Becker)**

Mr. Becker reported that an additional \$200,000 in unobligated carry forward funds is available after the books were closed for FY 2013.

He recommended the following adjustments to the FY 2014 budget: 1) set aside \$44,000 for the Fourth District Juvenile clerical assistance as approved at the August Budget and Planning Session, 2) increase the senior judge budget by \$56,000 to allow senior judge coverage while judicial vacancies are being filled and provide for commissioner vacancies, and 3) add \$100,000 to the balance in the trust interest support account to address revenue shortfalls stemming from low interest rates.

Mr. Byrne provided an overview providing a comparison of the trust interest support account expenses to revenue over time.

**Motion:** Judge Parkin moved to approve the FY 2014 budget adjustment recommendations as presented by Mr. Becker. Judge Hornak seconded the motion, and it passed unanimously.

**7. COURT COMMISSIONER CONDUCT COMMITTEE UPDATE: (Judge Michele Christiansen and Rick Schwermer)**

Judge Christiansen provided an update to the Council on the activities of the Court Commissioner Conduct Committee. The following was highlighted in her update: 1) four complaints were received, 2) one complaint was dismissed, 3) one complaint was dismissed after investigation, and 4) one complaint – lost jurisdiction upon retirement of the commissioner.

Discussion will take place and feedback sought at the Presiding Judge luncheon tomorrow of Rule 3-111 – Performance Evaluation of Senior Judges and Court Commissioners.

**8. E-FILING HARDSHIP EXEMPTION: (Debra Moore)**

Ms. Moore received an e-filing hardship exemption from Mr. Steve Simpson, attorney in Bluff, UT due to inadequate internet access. A temporary exemption was granted by the Management Committee at their August 16 meeting to be discussed further at the September Council meeting.

Discussion took place.

**Motion:** Judge Mortensen moved to approve an exemption for 24 months. The motion was amended to approve an exemption for 12 months. Upon expiration of the 12-month period, Mr. Simpson would need to request approval for an extension to his exemption. Judge Dawson seconded the motion, and it passed unanimously.

**9. THIRD DISTRICT COURT COMMISSIONER VACANCY AND SECOND DISTRICT COMMISSIONER VACANCY: (Daniel J. Becker)**

Mr. Becker distributed data of the Second and Third District Court Judicial Weighted Caseload of Domestic Cases and Workload. He recommended filling both Commissioner vacancies.

**Motion:** Judge Maughan moved to approve filling the Third and Second District Commissioner vacancies. Judge Dawson seconded the motion, and it passed unanimously.

**10. JUDICIAL PERFORMANCE EVALUATION COMMISSION UPDATE: (Joanne Slotnik)**

Chief Justice Durrant welcomed Ms. Slotnik to the meeting.

Ms. Slotnik highlighted the following in her update: 1) the Commission will meet bi-weekly deliberating on judges up for retention in 2014; 2) the Supreme Court has appointed Professor Eric D. de Rosia, Brigham Young University, to replace Mr. Myron March on the Commission; 3) Ms. Diane Allison has replaced Ms. Jennifer Yim on the Commission; 4) the Utah Criminal Justice Center conducted an audit of the survey results and deemed the data accurate; 5) the timeframe to receive attorney survey data closed in mid August, 6) a request will be sent to the 2014 judges up for retention to update their bios; 7) any 2014 or 2016 judges up for retention, whose surveys reflect lower scores, will be notified by October 1 to be given an opportunity to meet with members of the Commission at the end of October to discuss their survey results further; 8) two writers have been hired to help prepare the judges' narratives; and 9) the 2014 retention reports will be distributed in January 2014.

Chief Justice Durrant thanked Ms. Slotnik and JPEC for their service.

**11. STANDING COMMITTEE ON TECHNOLOGY UPDATE: (Judge Carolyn McHugh and Ron Bowmaster)**

Chief Justice Durrant welcomed Judge McHugh to the meeting.

Judge McHugh expressed her gratitude to Ron and the IT staff for all they do to help the courts move forward technologically.

The following was highlighted in her report to the Council: 1) expansion of civil e-filing to include domestic and probate cases; 2) the transition to mandatory e-filing on April 1, 2013; 3) judicial workspace application became available for trial court judges and staff in January 2013; 4) juvenile court adopted a two-year electronic conversion plan; 5) the move to criminal e-filing is being addressed in county offices; 6) automated trust account disbursements being reviewed; 7) development of case management and workflow systems within the court systems; 8) development of e-filing in the Appellate Courts; 9) expansion of the judicial workspace application to justice courts; 10) adoption and expansion of mobile computing systems; 11) reviewing service delivery methods to remote court locations; and 12) e-filing and e-citation data was provided.

Judge McHugh was thanked for all she and the committee have done during the e-filing conversion.

The Council went back into an executive session.

## **12. RULES FOR FINAL ACTION: (Tim Shea)**

The following Rules are being recommended for final action: 1) CJA 01-0205 – Standing and Ad Hoc Committees, 2) CJA 03-0306 – Court Interpreters, 3) CJA 03-0402 – Human Resources Administration, 4) CJA 04-0110 – Transfer of Juvenile Cases from District and Justice Courts to the Juvenile Court, 5) CJA 04-0404 – Jury Selection and Service, 6) CJA 04-0508 – Guidelines for Ruling on a Motion to Waive Fees, and 7) Rule 4-0408.01 – Responsibility for Administration of Trial Courts.

Rule CJA-03-0306 – Court Interpreters. The amendment creates a complaint process for failure to follow the requirements of the rule and clarifies that the rule is not authority to charge for language access costs, and includes qualifications for a second language stipend before engaging in a first-hand conversation with a person of limited English proficiency.

Rule CJA 04-404 – Jury Selection and Service. The amendment to this rule implements the requirement of Section 78B-1-110 that compliance with a summons satisfies a person's jury service obligation for two years. The effective date for this rule should be January 1, 2014. The remainder of the rules can have an effective date of November 1, 2013.

Rule 4-408.01 – Responsibility for Administration of Trial Courts. This rule has been amended to remove Morgan from the list of contract sites.

Clarification was requested relative to justice courts and second language stipends.

**Motion:** Judge McCullagh moved to approve the rules for final action with an additional amendment to Rule CJA-03-0306 – Court Interpreters, relative to justice courts and second language stipends. Judge Steele seconded the motion, and it passed unanimously.

## **13. SENIOR JUDGE CERTIFICATIONS: (Tim Shea)**

Mr. Shea provided background information on certification of court commissioners and senior judges. He reported that the process for certifying court commissioners has remained the same for several years. The process for certifying senior judges, amended two years ago, includes reporting of attorney survey data to the survey contractor (National Center for State Courts). Mr. Shea outlined the process that should be taking place with the survey data. He reported ongoing problems exist with attorney survey data being reported to the survey



contractor. He noted that short of the surveys, the senior judges meet the minimum performance standards to be recertified.

Discussion took place.

Mr. Becker recommended that the Council act on the certification information for senior judges minus the attorney surveys and request the Policy and Planning Committee to review the process for certifying senior judges and modify the policy, if needed.

**Motion:** Mr. Lund moved to approve Mr. Becker's recommendations regarding the certification process for senior judges. Judge Steele seconded the motion, and it passed unanimously.

**Motion:** Judge Hornak moved to enter into an executive session to discuss matters of personnel. The motion was seconded, and it passed unanimously.

**14. SENIOR JUDGES AND COURT COMMISSIONERS CERTIFICATION: (Tim Shea)**

The following court commissioners terms will expire on December 31, 2013; and they have applied for reappointment: 1) Commissioner Michelle R. Blomquist, 2) Commissioner David S. Dillon, and 3) Commissioner Thomas R. Patton.

The following senior judges have terms that will expire on December 31, 2013; and they have applied for reappointment: 1) Judge Roger S. Dutson, 2) Judge Dennis M. Fuchs, 3) Judge Pamela G. Heffernan, and 4) Judge Sandra N. Peuler.

**Motion:** Judge Maughan moved to forward the recommendations, on behalf of the Council, to the local presiding judges to certify the court commissioners for reappointment and to the Supreme Court to certify the senior judges for reappointment. Judge Mortensen seconded the motion, and it passed unanimously.

**15. EXECUTIVE SESSION:**

An executive session was held at this time.

**16. ADJOURN**

The meeting was adjourned.

# TAB 2

# **Management Committee Minutes**

**JUDICIAL COUNCIL MANAGEMENT COMMITTEE  
MINUTES**

**Tuesday, October 8th, 2013  
Matheson Courthouse  
450 South State Street  
Salt Lake City, Utah**

**MEMBERS PRESENT:**

Chief Justice Matthew B. Durrant, Chair  
Hon. Kimberly K. Hornak, vice chair  
Hon. James Davis  
Hon. George Harmond

**EXCUSED:**

Hon. John Sandberg

**GUESTS:**

**STAFF PRESENT:**

Daniel J. Becker  
Ray Wahl  
**Diane Abegglen**  
Jody Gonzales  
Dawn Marie Rubio  
Debra Moore  
Rick Schwermer  
Tim Shea  
Alyn Lunceford  
Brent Johnson  
Ron Bowmaster  
Tom Langhorne

**1. WELCOME AND APPROVAL OF MINUTES: (Chief Justice Matthew B. Durrant)**

Chief Justice Durrant welcomed everyone to the meeting. Judge James Davis and Ms. Dawn Marie Rubio were extended a special welcome as a new Committee member and Juvenile Court Administrator, respectively. After reviewing the minutes, the following motion was made:

**Motion:** Judge Hornak moved to approve the minutes. Judge Harmond seconded the motion, and it passed unanimously.

**2. ADMINISTRATOR'S REPORT: (Daniel J. Becker)**

He reported on the following items:

There will be a lengthy executive session upon completion of the regular agenda.

Court's FY 2015 Budget. Chief Justice Durrant, Mr. Becker, and Mr. Wahl will meet with the Lt. Governor tomorrow to review the court's FY 2015 budget.

Retirement Committee. Chief Justice Durrant and Mr. Becker presented information regarding judicial retirement to the Retirement Committee.

JPEC. The 2016 midterm reports are out. Any judges up for retention in 2014 with any scores falling below the minimum have been notified by JPEC, and they will be provided an opportunity to meet with the Commission.

New Council Member Orientation. New Council member orientation is scheduled for 7:30 a.m. on Monday, October 28 prior to the Council meeting.

Records Appeal Process. Mr. Brent Johnson reviewed the appeals process with members of the Management Committee.

3. **COMMITTEE APPOINTMENTS: (Alyn Lunceford, Tom Langhorne, and Ron Bowmaster)**

The Courts Facility Planning Committee recommended the appointment of Judge Stephen Roth to fill the vacancy left by the appointment of Judge James Davis to the Judicial Council. Judge James Davis also served as the chair of the Committee. The Courts Facility Planning Committee recommended the appointment of Judge Charles Behrens to serve as the chair of the Committee.

**Motion:** Judge Harmond moved to approve the appointment of Judge Stephen Roth to fill the Court of Appeals vacancy on the Courts Facility Planning Committee left by the appointment of Judge James Davis to the Judicial Council and the appointment of Judge Charles Behrens to serve as the chair of the Committee and place it on the October Judicial Council consent calendar. Judge Hornak seconded the motion, and it passed unanimously.

The Standing Committee on Technology recommended the appointment of Ms. Dawn Marie Rubio to fill the vacancy on the Committee left with the resignation of Ms. Lisa Michele Church.

**Motion:** Judge Harmond moved to approve the recommendation of Ms. Dawn Marie Rubio to fill the vacancy on the Standing Committee on Technology left with the resignation of Ms. Lisa Michele Church and place it on the October Judicial Council consent calendar. Judge Hornak seconded the motion, and it passed unanimously.

The Standing Committee on Education received three names for consideration to fill the data processing representative vacancy left with Mr. Jason Ralston's term expiring. The names for consideration include: 1) Mr. David Haward, 2) Ms. Wendy Densley, and 3) Ms. Tracy Walker.

The Committee recommended Ms. Tracy Walker to fill the vacancy.

**Motion:** Judge Harmond moved to approve the recommendation of Ms. Tracy Walker to fill the vacancy left on the Standing Committee on Education left with Mr. Jason Ralston's term expiring and place it on the October Judicial Council consent calendar. Judge Hornak seconded the motion, and it passed unanimously.

The Ethics Advisory Committee has a vacancy with the appointment of Judge Randall Skanchy to the Judicial Council. The following names were provided for consideration in filling the vacancy: 1) Judge Samuel McVey, 2) Judge Robert Dale, and 3) Judge Denise Lindberg. It was noted that Judge Kate Toomey withdrew her name for consideration.

Discussion took place.

**Motion:** Judge Hornak moved to approve the appointment of Judge McVey to fill the vacancy on the Ethics Advisory Committee left with the appointment of Judge Randall Skanchy to the Judicial Council and place it on the October Judicial Council consent calendar. Judge Harmond seconded the motion, and it passed unanimously.

**4. GRANT APPROVAL: (Ron Bowmaster)**

Mr. Becker provided information on the CORIS Data Exchange using NIEM Standard Grant being awarded by CCJJ. With the rewrite of the criminal history system by the Department of Public Safety, this grant will be used for hiring contract programmers to make necessary changes in the court's criminal disposition reporting system and to upgrade the hardware that will be used to report dispositions.

The grant is in the amount of \$96,000 which includes a \$10,666 match from the Department of Public Safety.

**Motion:** Judge Hornak moved to approve the grant request as presented and place it on the October Judicial Council consent calendar. Judge Harmond seconded the motion, and it passed unanimously.

**5. RECORDS APPEAL: (Brent Johnson)**

Chief Justice Durrant welcomed Mr. Wilson to the meeting.

Mr. Alma Wilson appealed his records request denial where he requested copies of juvenile court decisions to help him determine judicial reasoning in those decisions. Mr. Wilson provided background information relevant to his records request.

Mr. Johnson outlined the process for determining whether records being requested are classified as public or private. Rule 4-202.02 – Records Classification and Rule 4-202.03 – Records Access were reviewed in determining whether the records being requested were classified as public or private.

Mr. Wilson asked for clarification on how the decision is made in determining a document is classified as private. Mr. Johnson provided clarification noting distinctions, classifications and rules that factor into the determination of a document deemed as private.

Chief Justice Durrant thanked Mr. Wilson for presenting his appeal to the Management Committee, and let Mr. Wilson know that the Committee would take his appeal under advisement and their decision would be communicated to him at a later date.

The Management Committee discussed the appeal further.

**Motion:** Judge Hornak move to deny Mr. Alma Wilson's appeal of his records request under the Code of Judicial Administration – Rules 4-202.02 – Rules Classification and 4-202.03 – Records Access which classify juvenile court records and who is entitled to access those records. Judge Harmond seconded the motion, and it passed unanimously.

Correspondence responding to Mr. Wilson's appeal will be prepared and sent to him.

**6. COUNCIL COMMITTEE APPOINTMENTS: (Chief Justice Matthew B. Durrant)**

Chief Justice Durrant recommended that all current Council members retain their committee appointments, and the three new members will be appointed to fill the vacancies left by the outgoing Council members.

Judge James Davis is recommended to fill the vacancy on the Management Committee which will restore representation of all court levels on the Committee. Judge Randall Skanchy is being recommended to serve on the Policy and Planning Committee. Judge Thomas Higbee is being recommended to serve on the Liaison Committee and on the Policy and Planning

Committee as an ex-officio member. Judge David Marx is being recommended to serve on the Liaison Committee.

**Motion:** Judge Harmond moved to approve the recommendations as presented for Council committee appointments. Judge Hornak seconded the motion, and it passed unanimously.

**7. 2014 COUNCIL CALENDAR: (Ray Wahl)**

Mr. Wahl reviewed the 2014 Management Committee and Judicial Council calendars.

He highlighted the following in his Judicial Council calendar review: 1) the March meeting is held in conjunction with the Bar's Spring Conference in St. George; 2) the April meeting is scheduled to be held in the newly completed Juab County court facility in Nephi; 3) with Memorial Day the last Monday in May, it is being recommended to hold the meeting on May 19; 4) discussion took place on whether or not to hold the July meeting in Snowmass, Colorado in conjunction with the Bar's Summer Conference; and 5) the September meeting will be held in conjunction with the Annual Judicial Conference.

Mr. Wahl provided costs and options for consideration in determining whether the Council and/or Boards should hold their July 2014 meetings in Snowmass, Colorado in conjunction with the Bar's Summer Conference. Discussion took place.

The Management Committee deferred the matter for discussion and final approval to the Council at their October meeting.

**8. COUNCIL CALENDAR REQUEST – AV LAW DEPOT: (Tim Shea)**

Mr. Shea provided background information regarding the request made by Mr. Austin Hepworth to appear before the Judicial Council.

Mr. Hepworth, a Utah attorney, represents AVLAWDepot, LLC – a company that provides deposition support services, is requesting an opportunity to appear before the Judicial Council to present issues before the Division of Occupational and Professional Licensing (DOPL).

Discussion took place.

**Motion:** Judge Harmond moved to deny Mr. Hepworth's request to appear before the Judicial Council regarding his DOPL matters and have a response prepared by Mr. Shea regarding the Committee's decision for denial. Judge Hornak seconded the motion, and it passed unanimously.

**9. RETIREMENT BOARD VACANCY: (Daniel J. Becker)**

**Utah State Retirement Board – Membership**

A vacancy exists on the Utah State Retirement Board's Membership Council for a Council member representative with the expiration of Judge Greg Orme's term.

Judge James Davis is being recommended to fill the vacancy.

**Motion:** Judge Harmond moved to approve the recommendation of Judge James Davis to fill the vacancy on the Utah State Retirement Board's Membership Council as the Council representative and place it on the October Judicial Council consent calendar. Judge Hornak seconded the motion, and it passed unanimously.

**10. JUDICIAL CONDUCT COMMISSION REQUEST: DEFINITION OF SALARY: (Daniel J. Becker)**

Mr. Becker and Mr. Johnson provided background information regarding “definition of salary” being requested by the Judicial Conduct Committee.

The matter deals with justice court judges salaries vs. 401K contributions. Discussion took place.

**Motion:** Judge Harmond moved to decline to consider providing additional clarification on the “definition of salary” as requested by the Judicial Conduct Committee. Judge Hornak seconded the motion, and it passed unanimously.

**11. APPROVAL OF JUDICIAL COUNCIL AGENDA: (Chief Justice Matthew B. Durrant)**

Chief Justice Durrant reviewed the proposed Council agenda for the October 28 Council meeting.

**Motion:** Judge Hornak moved to approve the agenda for the October 28 Council meeting as amended. Judge Harmond seconded the motion, and it passed unanimously.

**Motion:** Judge Hornak moved to enter into an executive session to address a personnel matter. Judge Harmond seconded the motion, and it passed unanimously.

**12. EXECUTIVE SESSION**

An executive session was held at this time.

**13. ADJOURN**

The meeting was adjourned.



# **Liaison Committee Minutes**

# JUDICIAL COUNCIL LIAISON COMMITTEE

## AGENDA

**Tuesday – September 10, 2013**  
**Superior Room B**  
*Honorable Jill Parrish, Presiding*

### **ATTENDEES:**

Hon. Brendan McCullagh  
Hon. David Mortensen  
Justice Jill Parrish  
Hon. Larry Steele

### **STAFF PRESENT:**

Alison Adams-Perlac  
Ray Wahl  
Tim Shea  
Rick Schwermer  
Nancy Merrill

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#### **1. Welcome and Approval of Minutes (Justice Jill Parrish)**

Justice Parrish welcomed everyone to the meeting.

***Motion: Judge Larry Steele made a motion to approve the minutes from the Liaison Committee meeting on August 16, 2013. Judge David Mortensen seconded the motion and the motion carried unanimously.***

#### **2. Domestic Violence Citation (Judge Brendan McCullagh)**

The committee discussed the following changes to the proposed bill.

- redraft on the citation language
- decide who will run the bill

Judge McCullagh explained that the majority of the changes are housekeeping. He edited the wording to apply to all offenses rather than just traffic citations. Judge McCullagh attempted to clarify language referring to citing and arrest. He proposed to eliminate the failure to appear as a misdemeanor. There was further discussion about who should sponsor the non-housekeeping parts of the bill. The Committee approved the proposed changes in concept and agreed to pass the proposed changes on to the Council with a recommendation to find a sponsor.

***Motion: Judge David Mortensen moved to pass the proposed changes to the Council with a recommendation to find a sponsor in the non-housekeeping parts of the draft. Judge Larry Steele seconded the motion and the motion passed unanimously.***

**3. Justice Court TST Fund (Mr. Tim Shea)**

***Motion: Judge David Mortensen moved to approve the typing error changing "6" to "7" on line 6. Judge Larry Steele seconded the motion and the motion carried unanimously.***

***Liaison Committee Position: Support***

**4. Other Business (Justice Jill Parrish)**

**Next Meeting:**        January 10, 2014  
                                 12:00 p.m.  
                                 AOC, Council Room

# TAB 3

## Proposed Judicial Council Committee Assignments: 2013-2014

### Management Committee

Chief Justice Matthew Durrant, Chair  
Judge Kimberly Hornak, Vice-Chair  
Judge James Davis  
Judge George Harmond  
Judge John Sandberg

### Policy and Planning

Judge Glen Dawson  
John Lund  
Judge Paul Maughan  
Judge Reed Parkin  
Judge Randall Skanchy  
Judge Thoms Higbee (ex-officio)

### Liaison

Justice Jill Parrish  
Judge Thomas Higbee  
Judge David Marx  
Judge David Mortensen

# TAB 4

**JUDICIAL COUNCIL  
2014 MEETING DATES**

**Meetings are generally scheduled on the fourth Monday of the month beginning at 9:00 a.m. Meetings will be held in the Council Room of the Matheson Courthouse unless otherwise noted.**

Monday, January 27, 2014

Monday, February 24, 2014

Friday, March 14, 2014 (in conjunction with the Bar's Spring Convention in St. George)

Monday, April 28, 2014 - Nephi

Monday, May 19, 2014 (NOTE: Date change with May 26 being Memorial Day)

Monday, June 23, 2014

July 14, at Matheson; July 15 in Snowmass, CO or July 28 at Matheson

Friday, August 15, 2014 (Council Budget and Planning Meeting - Matheson Courthouse)

Tuesday, September 9 or 23, 2014 (Held in conjunction with the Annual Judicial Conference)

Monday, October 27, 2014

Monday, November 24, 2014

Monday, December 15, 2014

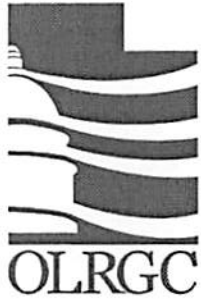
**Bar Conferences:**

Spring Convention in St George - March 13-15, 2014

Summer Convention in Snowmass, CO - July 16-19, 2014

# TAB 5





# INTERIM HIGHLIGHTS

Office of Legislative Research and General Counsel  
House Building, Suite W210 • Salt Lake City, Utah 84114 • (801) 538-1032

## LEGISLATIVE INTERIM MEETINGS

Meetings were held Wednesday, October 16, 2013, or as noted.

### Administrative Rules Review Committee

September 30, 2013

#### Administrative Rulemaking Amendments

Discussed revised draft legislation "Administrative Rulemaking Amendments," which was previously discussed in the September 16 meeting. The draft bill:

- Clarifies the penalty for an agency's failure to timely comply with the statutory requirement for a five-year administrative rules review;
- Modifies the five-year review filing requirements; and
- Provides that the Division of Administrative Rules' failure to give an agency notice of a five-year review deadline does not exempt an agency from complying with the provisions of the bill.

*Action: Approved as a committee bill, draft legislation "Administrative Rulemaking Amendments."*

#### Confidentiality Agreement for Parent Review Committee

Discussed the confidentiality agreement that members of the new 15-member parent review committee, created in 2012 General Session H.B. 15, "Statewide Adaptive Testing," to review the computer adaptive test questions for common core, must sign and how it can be written to allow parents to discuss any concerns regarding the test questions while preserving the integrity of the test.

#### Educator Evaluation Data

Discussed whether recent amendments to a State Board of Education administrative rule R277-487, "Public School Data Confidentiality and Disclosure," narrow the intent of Utah Code Subsection 53A-3-602.5(1) that provides that the written school performance report, developed by the State Board of Education, "inform the state's residents of the quality of schools and the educational achievement of students in the state's public education system."

*Chairs: Rep. Curtis Oda / Sen. Howard A. Stephenson  
Staff: Art L. Hunsaker (Policy Analyst) / Christine R. Gilbert (Attorney) / Tracey Fredman (Secretary)*

### Business and Labor

#### Alcoholic Beverage Control

Received a presentation from the Pacific Institute for Research and Evaluation at the Alcohol, Policy, and Safety Research Center, which recommends that the legal blood alcohol level for operating a motor vehicle be reduced from .08 to .05. Also received public comment regarding alcohol consumption and the taxation of alcoholic products.

#### Disclosure of Consumer Credit Scores

Received information from a legislator on the disclosure of consumer credit scores by various organizations, including national credit reporting agencies. Also received comments from the public.

#### Insurance Code Changes

Received a presentation from the Insurance Department on proposed changes to the Insurance Code.

*Chairs: Rep. James A. Dunnigan / Sen. Curtis S. Bramble  
Staff: Bryant R. Howe (Assistant Director) / Christine R. Gilbert (Attorney) / Patricia Owen (Attorney) / Kristen C. Ricks (Secretary)*

### Economic Development and Workforce Services

#### Child Care Subsidy Program

Received a follow-up report from the Department of Workforce Services on the Child Care Assistance Program. The program provides child care assistance to low-income families to enable parents to work outside the home. The current child care assistance subsidy rate for Utah is 43 percent of the cost of care assistance, but the desired rate is 75 percent of the cost. The department requested an appropriation from the General Fund to reach the desired rate. The department has not received money from the General Fund since 2009.

#### Economic Mobility for Utah Residents

Received a report from the Utah Foundation, "Climbing Toward the American Dream, a Second Analysis of Economic

*(Continued next page)*

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Mobility in Utah," which was released in August 2013. The report provides an analysis of the ability of Utah residents to move on the economic ladder and includes details on mobility across generations, income, wealth, and housing.

### Free Market Protection and Privatization Board Report

Received a statutorily required annual report from the Governor's Office of Management and Budget on the Free Market Protection and Privatization Board regarding the board's activities, the board's recommendations on privatizing an activity provided by an agency, and the status of the Commercial Activities Inventory and Review.

### Refugee Program

Received a report from the Department of Workforce Services on the refugee services program, which provides cash and medical assistance to newly arriving refugees, new asylees, and victims of human trafficking. Assistance is based on need and may only be provided during the first eight months after arrival. In FY 2012, the department provided assistance to 394 individuals.

### Management of Agency Reports and Information

Received a report from committee staff and the Department of Workforce Services, the Department of Heritage and Arts, and the Governor's Office of Economic Development on improving the process of providing needed reports and other information on an annual basis to the committee and to the public.

*Action: Directed committee staff to prepare legislation to provide for consolidation of annual agency reports into a comprehensive annual report from the Department of Workforce Services, the Department of Heritage and Arts, and the Governor's Office of Economic Development.*

### Unemployment Insurance Program

Received information from the Department of Workforce Services on draft legislation that the committee had directed staff to prepare to address issues raised by the Department of Workforce Services.

*Action: Approved as a committee bill, draft legislation "Workforce Services Amendments," which removes a provision regarding the overlapping of base periods when determining when certain benefits costs will not be charged to an employer for unemployment insurance claims.*

*Chairs: Rep. Rebecca P. Edwards / Sen. Aaron Osmond  
Staff: Benjamin N. Christensen (Policy Analyst) / Peter Asplund (Attorney) / Debra Hale (Secretary)*

### Economic Development Task Force

October 17, 2013

### Potential Task Force Recommendations

Discussed potential task force recommendations for continued economic development success in Utah.

(Continued next column)

*Action: Directed that the task force chairs and staff consolidate and refine potential task force recommendations for future consideration.*

*Chairs: Rep. Brad R. Wilson / Sen. Stuart C. Reid  
Staff: Benjamin N. Christensen (Policy Analyst) / Peter Asplund (Attorney)  
Jennifer K. Christopherson (Secretary)*

## Education

### Funding for Public Schools

Reviewed draft legislation, "School Funding Through Income Tax Revisions," which eliminates the personal exemption from state personal income taxes and directs the new revenue generated to public schools. Ten percent of the new revenue would be allocated in an equal amount to each public school and the remainder would be allocated to public schools on a per student basis.

### Investment of State School Fund

Received a report of the School Trust Investment Task Force, which was created by the State Board of Education to study the governance and management of the permanent State School Fund. The School Trust Investment Task Force recommended that:

- An independent board be created with responsibility to manage the State School Fund; and
- Policy on the distribution of State School Fund money be studied.

The Utah state treasurer identified legal issues relating to the recommendations of the School Trust Investment Task Force.

### Utah Schools for the Deaf and the Blind

Received the annual report of the Utah Schools for the Deaf and the Blind. The superintendent of the Utah Schools for the Deaf and the Blind requested that a new facility be built in Salt Lake County to replace buildings in need of significant repair and leased space currently in use.

*Chairs: Rep. Francis D. Gibson / Sen. Stuart C. Reid  
Staff: Constance C. Steffen (Policy Analyst) / Tiffany A. Stanley (Policy Analyst) / Angela Oakes Stallings (Attorney) / Debra Hale (Secretary)*

## Education Task Force

September 26, 2013

### Best Practices of High Achieving At-risk Schools

Received comments from 10 principals regarding implemented strategies that result in high student achievement. The principals represented schools that have a high proportion of at-risk students and received an A or B grade on the 2012-13 school year school grading report.

### College and Career Advisement and Counseling

Reviewed a proposal to establish a pilot program in high schools to hire college and career coaches who would provide information to students on how to prepare, apply, and pay for

(Continued next page)

postsecondary education as well as information on careers, career pathways, and educational requirements. Unlike a school counselor, a college and career coach would not be required to have a graduate degree.

### Perspectives on Student Achievement

Received a report on from education stakeholders regarding strategies to improve student learning.

The task force chair highlighted the following points discussed by the group:

- Focusing on student learning or outputs rather than inputs;
- The importance of soft skills and character education;
- Strategies to improve teacher quality, including year-long internships and professional development, targeted to improve instruction;
- Technology as a tool for learning and the need for educators to learn how to use technology; and
- The need to help students make the connection between school and careers.

*Chairs: Speaker Rebecca D. Lockhart / President Wayne L. Niederhauser  
Staff: Constance C. Steffen (Policy Analyst) / Tiffany A. Stanley (Policy Analyst) / Angela Oakes Stallings (Attorney) / Debra Hale (Secretary)*

### Government Communications Task Force

October 10, 2013

#### DTS and UCAN Merger

Received an update on the merger of the radio communications part of the Department of Technology Services and the Utah Communications Agency Network.

#### Radio Communications — Use of 800 MHz and 150 MHz

Discussed the plan for the future use of 800 MHz and 150 MHz radio communication systems in Utah.

#### Technical Working Group

Received recommendations from a working group that discussed options on how best to proceed in solving technical and budgetary problems relating to radio communications.

*Chairs: Rep. Brad L. Dee / Sen. Wayne A. Harper  
Staff: Joseph T. Wade (Policy Analyst) / Victoria Ashby (Attorney) / Tracey Fredman (Secretary)*

### Government Operations

#### Constitutional Officers and Personal Vehicles

Discussed code provisions that allow constitutional officers to use state-provided vehicles for personal and private use. The committee determined that no significant problems exist and no revisions are needed at this time.

### Election Offense Amendments

Discussed draft legislation "Election Offense Amendments," which amends provisions related to investigating and adjudicating election complaints.

### Firefighter Procurement Code Exemptions

*Action: Approved as a committee bill, draft legislation "Amendment to Procurement Code Exemptions," which exempts from the Utah Procurement Code purchases of certain firefighting equipment by the Division of Forestry, Fire, and State Lands.*

### Governmental Purchases from the Division of Correctional Industries

Discussed draft legislation "Governmental Purchases from the Division of Correctional Industries," which:

- Requires the executive branch to purchase from the Division of Correctional Industries items that the division produces;
- Establishes rulemaking authority to provide for exemptions; and
- Establishes an appeal process for procurement decisions.

### Procurement Code Revisions

Received a presentation from the Division of Purchasing and General Services on recommendations for revisions to the Utah Procurement Code. Potential revisions include changes to the handling of gratuities and kickbacks, clarification on the definition of a request for statement of qualifications, changes to state contracting processes, and other technical corrections.

### School Construction Amendments

Discussed draft legislation "School Construction Amendments," which requires local education agencies to follow the Utah Procurement Code when constructing a public facility and follow certain retention requirements in the contracting process.

### Seasonal Crop Sales — Construction Code Exemptions

*Action: Approved as a committee bill, draft legislation "State Construction Code Amendments," which exempts from the state construction code a structure that is solely used by a producer to sell certain seasonal crops.*

*Chairs: Rep. Jack R. Draxler / Sen. Margaret Dayton  
Staff: Brian J. Bean (Policy Analyst) / Thomas R. Vaughn (Attorney) / Anna M. Allen (Secretary)*

### Health and Human Services

#### Controlled Substance Database Access by Medicaid Accountable Care Organizations

Considered whether the state should grant Medicaid Accountable Care Organizations limited access to the state's controlled substance database in order to support Medicaid's

Restriction Program. The Restriction Program prevents inappropriate and excessive use of Medicaid services by limiting a client to one primary care provider and one pharmacy.

*Action: Prioritized the drafting of legislation that would grant Medicaid Accountable Care Organizations limited access to the state's controlled substance database.*

## Federal Government Shutdown

Discussed impacts of the partial federal government shutdown on Utahns and Utah businesses. Recognized the attendance of staff representing three members of Utah's congressional delegation.

Following the discussion, those representatives answered questions about the shutdown. Received letters regarding the shutdown from two other members of the congressional delegation.

## Sunset Review — Utah Health Data Authority Act

*Action: Approved as a committee bill, draft legislation "Reauthorization of Utah Health Data Authority Act," which changes the sunset date for the Utah Health Data Authority Act to 2024 and amends the data-sharing authority of the Utah Health Department's Health Data Committee.*

## Underage and Binge Drinking

Considered draft legislation "Beer Excise Tax Amendments," which funds programs to prevent underage and binge drinking of alcohol by increasing the beer tax. Received presentations from researchers on programs designed to reduce alcohol misuse and on the gap between the costs of alcohol misuse and the revenue generated by alcohol consumption. Considered concerns about the bill raised by the Utah Beer Wholesalers Association, the Utah Food Industry Association, the Utah Retail Merchants Association, and the Utah Taxpayers Association.

*Chairs: Rep. Paul Ray / Sen. Evan J. Vickers*

*Staff: Mark D. Andrews (Policy Analyst) / Samuel C. Johnston (Attorney) / Cathy J. Dupont (Attorney) / Lee A. Killian (Attorney) / Lori R. Rammell (Secretarial Supervisor)*

## Health Reform Task Force

*October 17, 2013*

Received reports from the three Utah organizations that have received federal funding to educate people about the federal government's health insurance exchange for individuals and families, which opened October 1.

Received a report from the task force's Insurance Market Team on a study to determine what would be required for the state to run its own risk adjustment program under the federal Patient Protection and Affordable Care Act.

Received a report from the Health Department on Medicaid eligibility expansion options studied by the Governor's Medicaid Expansion Options Community Workgroup. Many of the options would require a federal waiver of certain Medicaid requirements.

Also received a report from the department on the recommendations of five workgroups created by the governor to develop a health innovation plan for the state. The recommendations address health information technology, the health care workforce, prevention and wellness, payment reform, and quality and safety.

*Action: Voted to support and encourage the Insurance Department to continue working on a state-run risk adjustment program and to continue pursuing an exchange establishment grant to upgrade the state's All-payers Claims Database.*

*Action: Voted to support use of the exchange grant for enhancement of the All-payers Claims Database when it is reviewed by the Executive Appropriations Committee.*

*Chairs: Sen. Allen M. Christensen / Rep. James A. Dunnigan*

*Staff: Mark D. Andrews (Policy Analyst) / Cathy J. Dupont (Associate General Counsel) / Samuel C. Johnston (Associate General Counsel) / Lori R. Rammell (Secretarial Supervisor)*

## Judiciary

### Administrative Subpoenas

Reviewed draft legislation, "Administrative Subpoena Reporting Requirements," which amends the reporting requirement in Utah Code Subsections 77-22-2.5 (9) and (10) to provide a more accessible report, as prepared by the Commission on Criminal and Juvenile Justice. The committee discussed the legislation, as well as other policy considerations related to reporting data collected by the issuance of administrative subpoenas.

### Annual Reports

Received presentations from the Commission on Criminal and Juvenile Justice and the Department of Workforce Services on annual statutorily required reports. The Commission on Criminal and Juvenile Justice presented DUI-related data and reported that in CY 2011 to CY 2012, DUI and drug-related fatalities increased from 30 to 37.

The Department of Workforce Services presented on the Intergenerational Welfare Reform Commission's annual report, which is part of the Legislature's efforts to end intergenerational poverty in Utah. The report provides poverty-related data and an in-depth analysis on the commission's current studies.

### Court System Modifications

Received a presentation from a legislator on draft legislation, "Court System Modification Amendments," which creates a new circuit court with limited jurisdiction. The Administrative Office of the Courts presented on the history of circuit courts in Utah and recent policy changes in justice courts related to the selection, retention, and compensation of judges.

*Chairs: Rep. Kay L. McCliff / Sen. Mark B. Madsen*

*Staff: Chelsea B. Lloyd (Policy Analyst) / Esther Chelsea-McCarty (Attorney) / Kristen C. Ricks (Secretary)*

## Law Enforcement and Criminal Justice

### Concealed Weapon Permit Fees

The committee received a statutorily required report from the Bureau of Criminal Identification on the amount and use of fees collected for concealed firearms permit applications. The bureau projects 138,720 application requests for 2013. This number is an increase over the 81,122 requests in 2012 and 76,943 requests in 2011.

### Drug Offender Reform Act

Received a status update from the Utah Substance Abuse Advisory Council regarding the report on the Drug Offender Reform Act that is to be provided to the committee on November 1, 2013. The report will include information and analysis that has not previously been available regarding participants in the Drug Offender Reform program versus offenders who have not participated.

### Housing State Inmates in County Jails

Received a report from the Utah Department of Corrections regarding the state's use of county jail facilities to house state inmates and the contracted rates at which the state reimburses the jails. The Department of Corrections uses this practice to manage its inmate population when the number of state inmates exceeds the number of available prison beds.

### Prison Facilities in Other States

Received a presentation from a legislator regarding a tour of prison facilities in other states, including privately operated prison facilities.

*Chairs: Rep. Curtis Oda / Sen. Todd Weiler*

*Staff: Nathan W. Brady (Policy Analyst) / Susan Creager Allred (Attorney) / Lori R. Rammell (Secretarial Supervisor)*

## Legislative Management Committee

*October 14, 2013*

Received a presentation from the Division of Risk Management concerning two settlement agreements the division has entered into recently, but which need the committee's approval in order to be finalized.

Received notification from committee staff that the Prison Relocation and Development Authority, to which four legislators are appointed, was not placed on the list of authorized committee meetings at the beginning of the interim.

Received a presentation from committee staff regarding the legislative intern program, including the cost of the current program and the increased cost of the program if it were expanded by 15 more interns.

**Action:** *Approved a motion recommending that the executive branch enter into the two settlement agreements presented by the Division of Risk Management.*

*(Continued next column)*

## INTERIM HIGHLIGHTS • October 2013

**Action:** *Approved the placing of the Prison Relocation and Development Authority on the list of approved meetings in order for those legislators appointed to the committee to receive compensation.*

**Action:** *Authorized the Office of Legislative Research and General Counsel to work with the state's colleges and universities to increase by up to 15, the number of interns working for the Legislature during the legislative session.*

*Chair & Vice Chair: President Wayne L. Niederhauser / Speaker Rebecca D. Lockhart  
Staff: Michael E. Christensen (Director) / John L. Fellows (General Counsel) / Phalin L. Flowers (Administrative Assistant)*

## Natural Resources, Agriculture, and Environment

### Executive Water Task Force Report

Received a report from the Department of Natural Resources on requests for legislation recommended by the Executive Water Task Force.

**Action:** *Passed a motion to, under committee sponsorship, open and prioritize bill files that incorporate the changes recommended by the Executive Water Task Force by amending Utah Code Sections 17-21-6, 73-3-26, 73-3-18, 73-5-3, and 73-3-29.*

### Management Plans for Water Conveyance Facilities

Received a report from the Board of Water Resources on water conveyance facilities reporting requirements that are intended to improve canal safety in those areas where potential risk to human life or extensive economic loss exist.

### Utah Outdoor Recreation Report

Received a report from the Utah Office of Outdoor Recreation on the organization and objectives of the newly created office.

### Reduction of Nutrient Pollution in Utah Waters

Received a report from the Division of Water Quality, Division of Wildlife Resources, Utah Waterfowl Association, and the Utah Office of Outdoor Recreation on the need to reduce nutrient pollution in Utah waters. The committee discussed the elements of potential legislation proposed by the Department of Agriculture and Food.

### Wolf Management in Utah

Received a review of the audit conducted by the Office of the Legislative Auditor General on appropriated funds for wolf management.

The Division of Wildlife Resources responded to the review and gave an update on the status of delisting of wolves under the Endangered Species Act.

*Chairs: Rep. Michael E. Noel / Sen. Scott K. Jenkins  
Staff: J Brian Allred (Policy Analyst) / RuthAnne Frost (Attorney) / Anna M. Allen (Secretary)*

## Occupational and Professional Licensure Review Committee

October 15, 2013

### Alternatives to Licensing

Received information regarding less restrictive alternatives to licensure, including registration, certification, bonding, title licensing, and promoting the use of private markets and the judicial system.

### Sunset Review — Massage Therapy Practice Act

*Action: Approved as a committee bill, draft legislation "Reauthorization of the Massage Therapy Licensing Act," which changes the sunset date of the act to July 1, 2024.*

*Chairs: Rep. Derek E. Brown / Sen. John L. Valentine*

*Staff: Bryant R. Howe (Assistant Director) / Peter Asplund (Attorney) / Tracey Fredman (Secretary)*

## Political Subdivisions

### Associations of Governments

Received a presentation explaining the purpose and the activities of Utah's seven associations of governments.

### Eminent Domain

Received a report from a legislator and the state property ombudsman, who have been working with a group of parties interested in eminent domain issues.

This month's report included recommendations regarding two issues:

- Physical occupation of property without negotiation or court order; and
- Definition of condemning entity.

### Government Records Ombudsman

Received a report from the Utah State Archives on the work performed by the government records ombudsman.

### Interlocal Cooperation Act

Discussed draft legislation, "Interlocal Act Amendments," which:

- Requires parties entering into an interlocal agreement to identify with specificity the rules, policies, and procedures that will govern the interlocal entity;
- Amends provisions governing an interlocal entity's compliance with public meeting requirements; and
- Requires an interlocal entity to adopt certain budget and fiscal procedures.

### Quality Growth Commission

Received a report from the Utah Quality Growth Commission on the state of quality growth in Utah, including the LeRay McAllister Conservation Program.

*Chairs: Rep. R. Curt Webb / Sen. Daniel W. Thatcher*

*Staff: Joseph T. Wade (Policy Analyst) / Victoria Ashby (Attorney) / Sara J. Thomas (Secretary)*

## Public Utilities and Technology

### Report — S.B. 275, Energy Amendments

Received statutory reports regarding enacted 2013 General Session S.B. 275, "Energy Amendments," from the Utah Public Service Commission and the Alternative Energy Interlocal Entity regarding policy and regulatory measures that would advance cleaner air through the enhanced use of alternative fuel vehicles. Primary concerns for this study issue include air pollution, financing, distribution, and balancing of interests.

### The Future of Energy Development

Received presentations from PacifiCorp, the Governor's Office of Energy Development, the Utah Public Service Commission, and the Division of Public Utilities about the future of energy development, including environmental concerns, distributed energy generation, financing, and net metering. In addition, the presenters provided information on how the regulatory process balances the needs of all classes of electric power users and the utility providers of the electric power.

*Chairs: Rep. Roger E. Barrus / Sen. David P. Hinkins*

*Staff: Richard C. North (Policy Analyst) / Rebecca L. Rockwell (Attorney) / Tracey Fredman (Secretary)*

## Retirement and Independent Entities

September 25, 2013

### Annual Utah Retirement System Modifications

Received an explanation from the Utah Retirement Systems on its recommended changes in statute to keep the Utah State Retirement and Insurance Benefit Act updated. Each year a bill is introduced to address issues identified in the previous year by the Utah Retirement Systems and to make technical changes.

### Heber Valley Historic Railroad Authority

Received a request from the Heber Valley Historic Railroad Authority for a \$250,000 appropriation to restore two steam locomotives for operation. The authority is an independent state agency responsible for the railroad.

### Judges' Retirement Systems

Received a presentation from committee staff and received comments from the judicial branch on the current judges' retirement system.

### New State Employee Matching 401(k) Contribution

Received an update from the Office of the Legislative Fiscal Analyst and the Department of Human Resource Management on the new state employee matching 401(k) contribution that begins on January 3, 2014. H.B. 194, "State Employee Benefits Amendments," which passed during the 2013 General Session, eliminates future accumulation of unused sick leave for the postretirement benefit known as the Unused Sick Leave Retirement Program II for state employees and established the new benefit for state employees.

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The amount of the matching contribution is determined annually by the Legislature, but may not exceed \$26 biweekly (\$676 per year) for each employee. The matching amount from the state has not yet been finalized.

### Postretirement Employment Restrictions

Received a presentation from committee staff and Utah Retirement Systems on postretirement employment restrictions. The 2010 retirement reforms implemented stricter postretirement reemployment restrictions, including a one-year employment separation requirement after retirement and a prohibition on collecting a retirement allowance while receiving any employer retirement contribution or while earning additional service credit. The restrictions are to discourage or eliminate incentives for early retirement. The committee heard additional policy options for postretirement employment restrictions from committee staff.

*Action: Approved as a committee bill, draft legislation "Reemployment Restrictions Amendments," which exempts an active senior justice court judge appointed to hear cases from postretirement employment restrictions and exempts a reemployed retiree who serves as a judge from reemployment earnings limitations.*

### Public Access to URS Records and Meetings

Received a report from Utah Retirement Systems on providing increased public access to URS records and meetings in response to a February 2013 state audit recommendation. URS described a new public website, [www.retirement.utah.gov](http://www.retirement.utah.gov), which provides access to URS reports, audits, board resolutions, and other information. URS also announced that it will open URS board administrative meetings to the public.

### Total Compensation Analysis for State Employees

Received a report from the Hay Group, an independent consulting firm contracted by the Department of Human Resource Management to study total compensation for state employees compared to the market and to make compensation recommendations. In "State of Utah: Total Compensation Market Survey and Analysis Study," Hay Group reported that the state's market position for cash compared to overall market is at approximately the same level as in 2011.

Excluding private sector pay in annual incentives, base salary for state workers is 11.2% below market, while benefits are 27.6% above market.

*Chairs: Rep. Craig Powell / Sen. Todd Weiler  
Staff: Benjamin N. Christensen (Policy Analyst) / Peter Asplund (Attorney) / Shannon C. Halverson (Attorney) / Linda Error (Secretary) / Anna M. Allen (Secretary)*

## Revenue and Taxation

### Deduction to Taxable Motor Fuel

Received a presentation from a legislator and retail dealers of gasoline regarding an existing 2% deduction to the gross

amount of taxable motor fuel allowed in state statute to allow for evaporation, loss in handling, and expenses of collection. Producers and refiners are required to pay an amount equal to one half of the deduction to retail dealers.

*Action: Directed that the presenting legislator work with committee members to draft legislation that would clarify who receives the benefit of the existing 2% deduction.*

### Pollution Control Sales Tax Exemption Amendments

*Action: Directed committee staff to prepare legislation to amend the sales tax exemption for investment in pollution control and pollution elimination facilities.*

### Property Tax — Calculation of the Certified Rate

*Action: Directed committee staff to prepare legislation that would mitigate the impacts that a large reduction in the taxable value of centrally assessed property might have on the calculation of the certified rate.*

### Tax Commissioner Qualifications

Discussed draft legislation "Appointment and Qualification of Members of the State Tax Commission," which amends provisions related to the appointment and qualification of members of the Utah State Tax Commission.

### Timing of "Truth in Taxation" Public Hearings

Received a report from a legislator on a solution related to calendar year taxing entities that hold budget hearings for a proposed budget increase in December, but do not hold a truth in taxation hearing for an increase to the property tax until August, when two-thirds of the budget has been spent.

### Specie Legal Tender

Discussed a proposal from the Utah Precious Metals Association that would address issues related to specie legal tender, including legal tender escrow agents and taxation.

*Chairs: Rep. Ryan D. Wilcox / Sen. Deidre M. Henderson  
Staff: Bryant R. Howe (Assistant Director) / Leif G. Elder (Policy Analyst) / Rebecca L. Rockwell (Attorney) / Sara J. Thomas (Secretary)*

## Senate Judicial Confirmation Committee

October 8, 2013

The committee recommended to the Senate the confirmation of Brian G. Cannell as a judge for the First District Court.

October 9, 2013

The committee recommended to the Senate the confirmation of Samuel P. Chiara as a judge for the Eighth District Court, Ryan B. Evershed as a judge for the Eighth District Juvenile Court, and Keith E. Eddington as a judge for the Eighth District Juvenile Court.

October 14, 2013

The committee recommended to the Senate the confirmation

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of Catherine S. Conklin as a judge for the Second District Court.

The Senate met on October 16, 2013, and confirmed Mr. Cannell, Mr. Chiara, Mr. Evershed, and Mr. Eddington.

*Chair: Sen. Scott K. Jenkins*

*Staff: Michael E. Christensen (Director) / Susan Creager Allred (Associate General Counsel) / Jennifer Christopherson (Legislative Secretary)*

## State Water Development Commission

*October 15, 2013*

### Canal Safety

Discussed the need for reliable data concerning the safety of water conveyance facilities in the state and current canal safety management plan requirements. The Utah Association of Conservation Districts reported on its efforts to acquire canal safety data in certain Utah counties.

### Change Application Procedures

Received a report from the Utah Irrigators Alliance on proposed modifications to water right change application procedures. The commission also considered draft legislation "Water Rights—Change Application Amendments," which amends change application procedure requirements under Utah Code Title 73, Water and Irrigation.

### State and Federal Water Rights

Received a report from the Utah Farm Bureau Federation on its efforts to protect water rights holders from federal government impairment of water rights.

*Chairs: Rep. Keith Grover / Sen. Margaret Dayton*

*Staff: J Brian Allred (Policy Analyst) / RuthAnne Frost (Attorney) / Anna M. Allen (Secretary)*

## Subcommittee on Oversight

*October 15, 2013*

Received a presentation from the Office of the Legislative Fiscal Analyst reviewing the FY 2014-15 base budgets of the Senate and House of Representatives.

Received from the Office of the Legislative Fiscal Analyst reviews of the proposed budgets of the following offices:

- Office of Legislative Research and General Counsel;
- Office of the Legislative Fiscal Analyst; and
- Office of the Legislative Auditor General.

**Action:** *The subcommittee approved the proposed base budgets for the three staff offices.*

*Chairs: President Wayne L. Niederhauser / Speaker Rebecca D. Lockhart*

*Staff: Bryant R. Howe (Assistant Director) / Eric N. Weeks (Deputy General Counsel) / Phalin L. Flowers (Administrative Assistant)*

## Transportation

### Bonding for Transportation

Received a presentation from the Office of the Legislative Fiscal Analyst regarding the state bonding process, current transportation bonding levels, and future transportation bonding options.

### Condition of Utah's Roads

Continued a discussion from the June meeting with representatives of cities and counties regarding the current condition of roads in their jurisdictions and heard their recommendations for how to generate additional funding to improve road conditions.

### Driver License Amendments

**Action:** *Approved as a committee bill, draft legislation "Driver License Amendments," which makes a person who is less than 18 years of age eligible for a driver license certificate if, for six months, the person has held for six months an equivalent learner permit issued by another state or a branch of the United States Armed Forces.*

### DUI Annual Report

Received an annual, statutorily required report on DUI-related data from the Commission on Criminal and Juvenile Justice, including:

- Data necessary to allow DUI sentencing and enhancement decisions to be made;
- DUI-related data elements collected and maintained by the state courts; and
- Any measures for which data are available to evaluate the profile and impacts of DUI recidivism and to evaluate the DUI-related processes of law enforcement, adjudication, sanctions, driver license control, and alcohol education, assessment, and treatment.

### Reducing the Legal Blood Alcohol Level

Received a presentation from the Pacific Institute for Research and Evaluation at the Alcohol, Policy, and Safety Research Center, which recommends that the legal blood alcohol level for operating a motor vehicle be reduced from .08 to .05.

### State Highway System Report

Received an annual, statutorily required report from the Utah Department of Transportation regarding changes to the state highway system.

### Transit Funding

Discussed a committee study item regarding the funding of public mass transit.

*Chairs: Rep. Johnny Anderson / Sen. Kevin T. Van Tassell*

*Staff: Art L. Hunsaker (Policy Analyst) / Shannan C. Halverson (Attorney) / Tracey Fredman (Secretary)*



## Veterans Reintegration Task Force

October 18, 2013

### College Credit for Military Service & Training

Received a report from the Utah Board of Regents about the implementation of H.B. 254, "College Credit for Veterans," which passed during the 2013 General Session and requires Utah institutions of higher education to participate in a nationwide program for granting uniform credit for military training and experience. The board formally adopted the American Council on Education's program and military guide.

### Veterans' Courts

Received a presentation from the Utah Office of the Court Administrator about the creation of a pilot Veterans' Court program. The office indicated that it will be creating a pilot Veterans' Calendar for addressing veterans in the judicial process. Additional information about federal government and other states' veterans' court programs was provided by the task force staff.

### Veterans' Employment Opportunities

Received a presentation from the Utah Department of Workforce Services about the reporting of employment opportunities to the department by governmental entities and private contractors who receive a governmental entity contract. The task force discussed draft legislation that requires governmental entities to report employment opportunities to the department.

*Action: Approved as a committee bill, draft legislation "Workforce Services Job Listing Amendments," which requires certain governmental entities to report employment opportunities to the Utah Department of Workforce Services for public listing.*

### Veterans' Services Coordinator

Received a report from the Utah Department of Veterans' and Military Affairs about the implementation of S.B. 126, "Coordination of Services for Veterans," which passed during the 2013 General Session, and the requirement for hiring a Veterans' Services Coordinator in the department and the appointment of Veterans' Services Specialists at certain state agencies. The former executive director of the department noted that money was appropriated in the 2012-13 budget for the coordinator position.

### Federal Government Shutdown

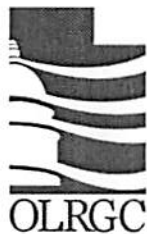
Discussed impacts of the partial federal government shutdown on Utahns and Utah businesses. Recognized the attendance of staff representing three members of Utah's congressional delegation.

Following the discussion, those representatives answered questions about the shutdown. Received letters regarding the shutdown from two other members of the congressional delegation.

*Chairs: Rep. Paul Ray / Sen. Peter C. Knudson*

*Staff: Richard C. North (Policy Analyst) / Esther Chelsea-McCarty (Associate General Counsel) / Tracey Fredman (Secretary)*

(Continued next column)



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*Editors: Susan Creager Allred, Nathan W. Brady, Leif G. Elder, and Anna M. Allen*

*Office of Legislative Research and General Counsel*

**Next Interim Day — November 20, 2013**

# TAB 6

## Juvenile Court Fine and Bail Schedule | June 25, 2012

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### Definitions.

- Fine.** The amount a juvenile must pay as a consequence for the offense committed, as set by statute and/or the Juvenile Court Fine Schedule. The fine amount includes surcharges and Court security fee.
- Citation.** An abbreviated referral submitted consistent with Utah Code section 78A-6-603, sufficient to invoke the jurisdiction of the juvenile court in lieu of a petition.
- Non-judicial adjustment.** A case that can be handled by a probation officer or a judicial assistant without filing a petition.

### Juvenile Court Fine Schedule

	Status / Infraction	Class C Misdemeanor	Class B Misdemeanor	Class A Misdemeanor	3 <sup>rd</sup> Degree Felony	2 <sup>nd</sup> Degree Felony	1 <sup>st</sup> Degree Felony
Maximum (as determined by Statute)		750	1000	2500	5000	10000	10000
*Standard	150	225	300	375	500	550	600
Minimum	25	50	100	150	200	250	300

*The standard fine should be recommended, then increased or decreased based on any aggravating or mitigating circumstances. The user should refer to the aggravating and mitigating circumstances outlined by the Juvenile Sentencing Guidelines and included herein.*

*\*Considering a youth's limited earning potential and fairness, standard fines do not apply to minor traffic and wildlife offenses. Recommended fines for these offenses are noted on the Juvenile Fine and Bail Schedule Offense List.*

Juvenile Court  
Fine Schedule  
by  
Offenses

July

2013

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## INDEX

<b>Rules 58, 70, 614, 651, 652, and 657 – Administrative and Wildlife Rules</b>	<b>Titles 3&amp;4 – Agricultural Code</b>	<b>Title 7 – Financial Institutions Act</b>	<b>Title 8 – Cemeteries</b>
<b>Title 9 – Community and Culture Development</b>	<b>Title 10 – Utah Municipal Code</b>	<b>Title 11 – Cities and Counties</b>	<b>Title 12 – Collection Agencies</b>
<b>Title 13 – Commerce and Trade</b>	<b>Title 15 – Contracts and Obligations</b>	<b>Title 16 – Corporations</b>	<b>Title 17 – Counties</b>
<b>Title 19 – Environmental Quality Code</b>	<b>Title 20A – Election Code</b>	<b>Title 23 – Wildlife Code</b>	<b>Titles 26 and 26 A – Health Code</b>
<b>Title 30 – Husband and Wife</b>	<b>Title 31A – Insurance Code</b>	<b>Title 32B – Alcoholic Beverage Control Act</b> • Chapter 4 – Alcohol Offenses	<b>Titles 34 and 34A – Labor</b>
<b>Title 36 – Legislature</b>	<b>Title 38 – Liens</b>	<b>Title 40 – Mines and Mining</b>	<b>Title 41 – Motor Vehicles</b> • Chapter 6a- DUI, Impaired Driving
<b>Title 42 – Names</b>	<b>Title 46 – Authentication of Documents</b>	<b>Title 53 – Public Safety</b>	<b>Title 53A – Public Education</b>
<b>Title 53C – School Trusts</b>	<b>Title 54 – Public Utilities</b>	<b>Title 55 – Public Welfare</b>	<b>Title 58 – Occupations and Professions</b> • Chapter 37 – Drug Offenses
<b>Title 59 – Taxation</b>	<b>Title 61 – Securities</b>	<b>Title 62A – Human Services</b>	<b>Title 63A – Administrative Services</b>
<b>Title 63C – State Commissions and Councils</b>	<b>Title 63G – General Government</b>	<b>Title 63K – Emergency Management</b>	<b>Title 63M – Governor’s Programs</b>
<b>Title 65A – State Lands</b>	<b>Title 72 – Transportation</b>	<b>Title 73 – Water and Irrigation</b>	<b>Title 77 – Criminal Procedure</b>
<b>Title 76 – Criminal Code</b> <ul style="list-style-type: none"> <li>• Chapter 4 – Attempt, Conspiracy, Criminal Solicitation</li> <li>• Chapter 5 – Assault, Stalking, Hazing, Child Abuse, Murder, Manslaughter</li> <li>• Chapter 6 – Arson, Criminal Mischief, Burglary, Robbery, Theft, Shoplifting</li> <li>• Chapter 10 – Tobacco Offenses</li> </ul>			

# Juvenile Court Fine Schedule by Offenses | 2013

Violation Code	Description	Default Severity	Mandatory Court Appearance	Standard Fine*	Other Statutory Penalties
R 657-4-9	POSSESSION OF LIVE GAME BIRDS	MB		300	
R 657-5	BIG GAME RULE VIOLATION	INF		150	
R 657-5-3	NON-RESIDENT HUNTING BIG GAME WITHOUT A LICENSE	MB		300	
R 657-5-7	UNLAWFUL POSSESSION OF A FIREARM ON TEMPORARY GAME PRESERVE	INF		150	
R 657-5-11(3)	POSSESSION OF UNQUIVERED ARROWS IN A VEHICLE	INF		150	
R 657-5-12(4)(a)	UNLAWFUL POSSESSION/CONTROL OF FIREARM FOR ARCHERY HUNT – BIG GAME	INF		150	
R 657-5-13	UNLAWFUL METHODS OF SPOTLIGHTING W/WEAPON IN POSSESSION	INF		150	
R 657-5-14(2)(a)	AERIAL LOCATION OF PROTECTED WILDLIFE WITHIN 48 HOURS OF BIG GAME HUNT	INF		150	
R 657-5-16	UNLAWFUL TAKING BIG GAME BY PARTY HUNTING AND/OR USE OF DOGS	MB		**182	← Example of the proposed fine for this wildlife offense. Standard recommended fine per current schedule is \$300.
R 657-5-17	NO REQUIRED EVIDENCE OF SEX/SPECIES/AGE ATTACHED TO CARCASS	INF		150	
R 657-5-17(2)	HUNTING BIG GAME WITH A USED OR DETACHED TAG	INF		150	
R 657-5-21	UNLAWFUL TAKING/POSSESSION OF PROTECTED WILDLIFE – ANTLERS	MB		300	
R 657-5-39(7)	FAILURE TO HAVE WILDLIFE CHECKED/SEALED IN SPECIFIED AMOUNT OF TIME	INF		150	
R 657-6	UPLAND RULE VIOLATION	INF		150	
R 657-6-3	HUNTING MIGRATORY BIRDS WITHOUT HIP REGISTRATION	INF		150	
R 657-6-7	UNLAWFUL POSSESSION OF TOXIC SHOT	MB		300	
R 657-6-8	UNLAWFUL POSSESSION OF A FIREARM	MB		300	
R 657-6-10	SHOOTING IN A RESTRICTED OR CLOSED AREA	MB		300	
R 657-6-10	UNLAWFUL TAKING/POSSESSING PROTECTED WILDLIFE BEFORE/AFTER LEGAL HOURS – MIGRATORY BIRDS	MB		300	

## Juvenile Court Fine Schedule by Offenses | 2013

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\*Standard fine based on Juvenile Fine Schedule. Fine may be increased or decreased based on aggravating or mitigating circumstances.

Amounts include surcharge and court security fee

\*\*The standard fines listed on the Juvenile Fine Schedule do not apply to wildlife and minor traffic offenses. The recommended fines for these offenses take into account a youth's limited earning potential and fairness.

F=Unspecified Felony

MU= Unspecified Misdemeanor

U=Unspecified

# TAB 7





Utah  
Office of Guardian ad Litem  
& CASA

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2013 Annual Report

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# OFFICE OF GUARDIAN AD LITEM

## A MESSAGE FROM THE DIRECTOR

Dear Friends and Colleagues,

Having re-joined the Office of Guardian ad Litem (GAL) in May of this year, I am reminded of all of the expectations we have for GAL attorneys. An attorney with the Office of Guardian ad Litem is required to have all of the skills of a trial lawyer. That means that a GAL attorney must know the law and be able to apply the law to the facts of a case; know how to draft pleadings and put forth evidence in support of those pleadings; know the rules of evidence and practice the rules in the courtroom; know how to perform direct and cross-examination of witnesses; know how to summarize the evidence and persuade the judge; and know how to recognize issues that require appellate review.

However, in addition to having these trial skills, a GAL attorney must also have a deep commitment to helping Utah children who have been abused or neglected. That means that a GAL attorney has to: have specialized knowledge about child abuse and neglect; relate to children and know how to effectively interview and communicate with them; travel to the homes and schools of these children; evaluate the child's placement to make sure that it is safe and appropriate; gather information from relatives, therapists, teachers, religious leaders, friends and others who are connected to these children and their families in order to understand their needs; make sure that the individual needs of the children are being met, including those related to their education, and their physical and mental health; assure that there are appropriate services in place to either keep children safely in their homes or to reunify children with their families; and be prepared to make recommendations to the court about what is in the child's best interest, as well as inform the court about the child's wishes.

The job of a GAL attorney carries with it tremendous responsibility. Children cannot speak for themselves and it is the job of the GAL attorney to stand in the shoes of the child and zealously advocate for the children the Office of GAL represents. Office of GAL attorneys are committed and well trained, and are an asset to the State of Utah.

In FY2013, the Office of Guardian ad Litem represented over **13,263** children in juvenile and district court. Office of GAL attorneys met in-person with our clients **28,336** times; were present for **26,025** hearings; attended **1,554** mediations; and participated in **4,806** Child and Family Team Meetings and the Office of GAL also participated in **109** cases on appeal.

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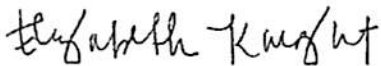
## OFFICE OF GUARDIAN AD LITEM

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This year, the Office of GAL is requesting from the Legislature a building block in the amount of 1.3 million dollars in on-going funds for salary parity. While the request is entitled salary parity, it truly is a request for a salary adjustment to bring the Office of GAL closer to salary parity with other state-paid attorneys, particularly those similarly employed by the Utah Attorney General's Office. The disparity between the salaries of attorneys with the Attorney General's Office and the Office of Guardian ad Litem has grown such that the amount being requested won't achieve salary parity but will help to narrow the gap, and assist with the retention of the experienced and knowledgeable attorneys currently employed by the Office of GAL.

Low pay directly impacts the Office of GAL. The Office of GAL experiences a turnover rate of approximately 20-25% each year. The majority of attorneys who leave the Office of GAL have more than four years of experience with the Office, and leave after the Office of GAL has invested significant time and money in training them. Historically, many GAL attorneys have left the Office of GAL to work for the Utah Attorney General's Office, with a more recent trend of leaving to enter private practice. Low pay is most often cited as the reason for the leaving the Office of GAL.

A sincere thanks to all of our attorneys who tirelessly advocate for the children they represent. Thanks too to our staff, CASA volunteers, Friends of CASA and the Administrative Office of the Courts, who support the work that we do and ease our burden. Finally, thanks to the GAL Oversight Committee who ensures that we are effectively fulfilling our mission and meeting our Legislative mandates.



Elizabeth Knight  
Director, Office of Guardian ad Litem

# OFFICE OF GUARDIAN AD LITEM

## CRITICAL ISSUE

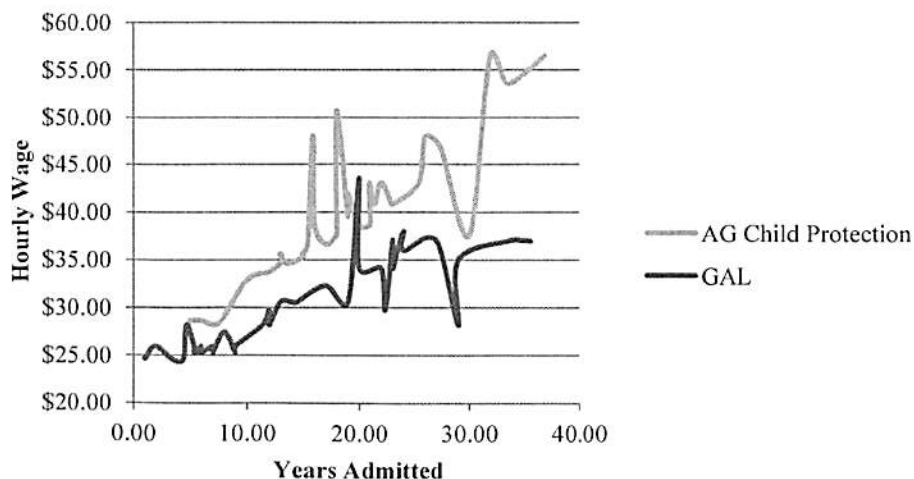
The most critical issue for the Office of GAL continues to be salary parity. This year, the Office of GAL is requesting from the Legislature a building block in the amount of 1.3 million dollars. While the request is entitled salary parity, it truly is a request for a salary adjustment to

	Attorney General Child Protection Division		Guardian ad Litem	
Years Admitted	Attorneys	Average Wage	Attorneys	Average Wage
0-4	1	\$28.67	5	\$25.60
5-9	3	\$29.97	12	\$25.75
10-14	7	\$34.89	6	\$29.64
15-19	10	\$40.61	4	\$35.11
20-24	7	\$41.14	7	\$34.98
25-28	3	\$45.94	3	\$33.40
29-32	2	\$47.06	1	\$36.98
33-36	2	\$56.60	1	\$36.98

bring the Office of GAL closer to salary parity with other state-paid attorneys, particularly those similarly employed by the Utah Attorney General's Office in the Child Protection Division. Specifically, the average hourly rate for an attorney in the Child Protection Division of the Utah Attorney General's Office is \$39.97, with the average number of years admitted to the Bar at 18.94 years. The average hourly rate for a GAL attorney is \$30.11, with the average number of years admitted to the Bar at 14.56 years. Additionally, the highest hourly rate of \$38.00 paid to a GAL attorney who has

practiced for 24 years and provides direct representation to children is less than the average hourly rate of \$39.97 for an attorney in the Child Protection Division of the Utah Attorney General's Office. Finally, more than half of GAL attorneys are paid less than the lowest hourly rate paid to an attorney in the Child Protection Division of the Utah Attorney General's Office.

### Salary Parity



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# OFFICE OF GUARDIAN AD LITEM

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## OVERVIEW

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The Office of GAL has offices in all eight judicial districts and provides state-funded attorneys to represent the best interests of minors in juvenile court when there are allegations of child abuse, neglect or dependency. The Office of GAL also represents the best interests of minors in protective order hearings and other limited district court proceedings. Specifically, SB49, which was enacted during the 2013 General Legislative Session, allows for the district court to appoint the Office of GAL to represent the best interests of minors in protective order hearings and other district court proceedings where there are allegations of abuse and neglect that have been pled and reported; and where both adult parties are indigent. However, these provisions of SB49 are set to sunset in July of 2014 when all cases in district court will be handled by the Private Guardian ad Litem program.

The Office of GAL also oversees the Private Guardian ad Litem (PGAL) program that recruits, trains and manages private attorneys who are appointed by the district court in cases where abuse or neglect is alleged but both adult parties are not indigent; and cases that involve child custody or parent-time. This fall, the Office of Guardian ad Litem provided two opportunities for Continuing Legal Education (CLE) to all PGAL attorneys. One was held in Salt Lake City and was sponsored by the Litigation Section of the Utah State Bar. The other was held in St. George and was sponsored by the Southern Utah Bar Association. In addition to the Director, two attorneys in the Office of GAL provide support to attorneys participating in the PGAL program.

Finally, the Office of GAL oversees the Court Appointed Special Advocate (CASA) program. The CASA program provides trained volunteers to assist Guardian ad Litem attorneys in their representation of minors in juvenile court.

## OFFICE OF GAL

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The Office of GAL has identified two major areas of focus for FY14. One area of focus is in regard to establishing permanency for older youth who are in the custody of the State of Utah. The other area of focus is in regard to increasing efficiencies within the office. The Office of GAL has identified two different ways to measure productivity within the Office. The first is by establishing standards and measuring performance in relation to those standards. The second is by conducting performance reviews of all GAL attorneys. Permanency, Performance Reviews and Performance Measures will be discussed in further detail below.

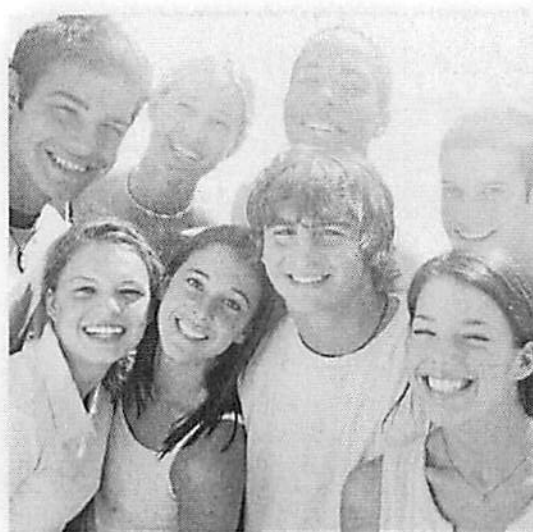
# OFFICE OF GUARDIAN AD LITEM

## PERMANENCY

In FY2013, over 400 foster care youth in the State of Utah had a primary goal of individualized permanency. That means that for those youth, their primary goal was no longer adoption. The Office of GAL believes that it is important to make sure that all efforts have been made to secure a permanent placement for these youth, as well as to identify supports for when these youth exit the foster care system. To that end, the Office of GAL now has a GAL staff attorney who allocates part of her time to reviewing cases where the primary goal for a youth is individualized permanency and makes recommendations in order to achieve permanency or to help these youth be better prepared when they leave the child welfare system.

Additionally, at the September Child Welfare Legislative Oversight Panel (CWLOP) Meeting, several youth from the Foster Care Youth Council addressed Legislators about their foster care experiences and recommendations they had to improve the system. The Office of GAL is committed to working with the Youth Council to identify potential legislation to address their concerns and to bring that proposed legislation back to members of the CWLOP who have indicated a willingness to assist these youth.

Whenever possible, the Office of GAL supports keeping a child in their own home if services can be implemented to keep them safe. However, if a child cannot safely remain in the home, the Office of GAL advocates for placement with appropriate relatives or other persons with whom the child is familiar.





# OFFICE OF GUARDIAN AD LITEM

## PERFORMANCE REVIEWS

In addition to identifying standards and performance measures, the Office of GAL has developed a comprehensive performance review process for its state-funded attorneys. The primary goal of the review process is to evaluate compliance with the above-stated standards and to ensure that the Office of GAL is effectively providing competent representation to abused and neglected children. Additionally, the process is intended to provide guidance and constructive feedback to each attorney and to provide direction for improvements to the program as a whole.

The performance reviews will include a review of the Office of GAL “VOICE” database; surveys and/or interviews of stakeholders; courtroom observation; and GAL attorney self-evaluation and interview. Summary data in regard to performance reviews will be available at the end of FY2014.

## PERFORMANCE MEASURES

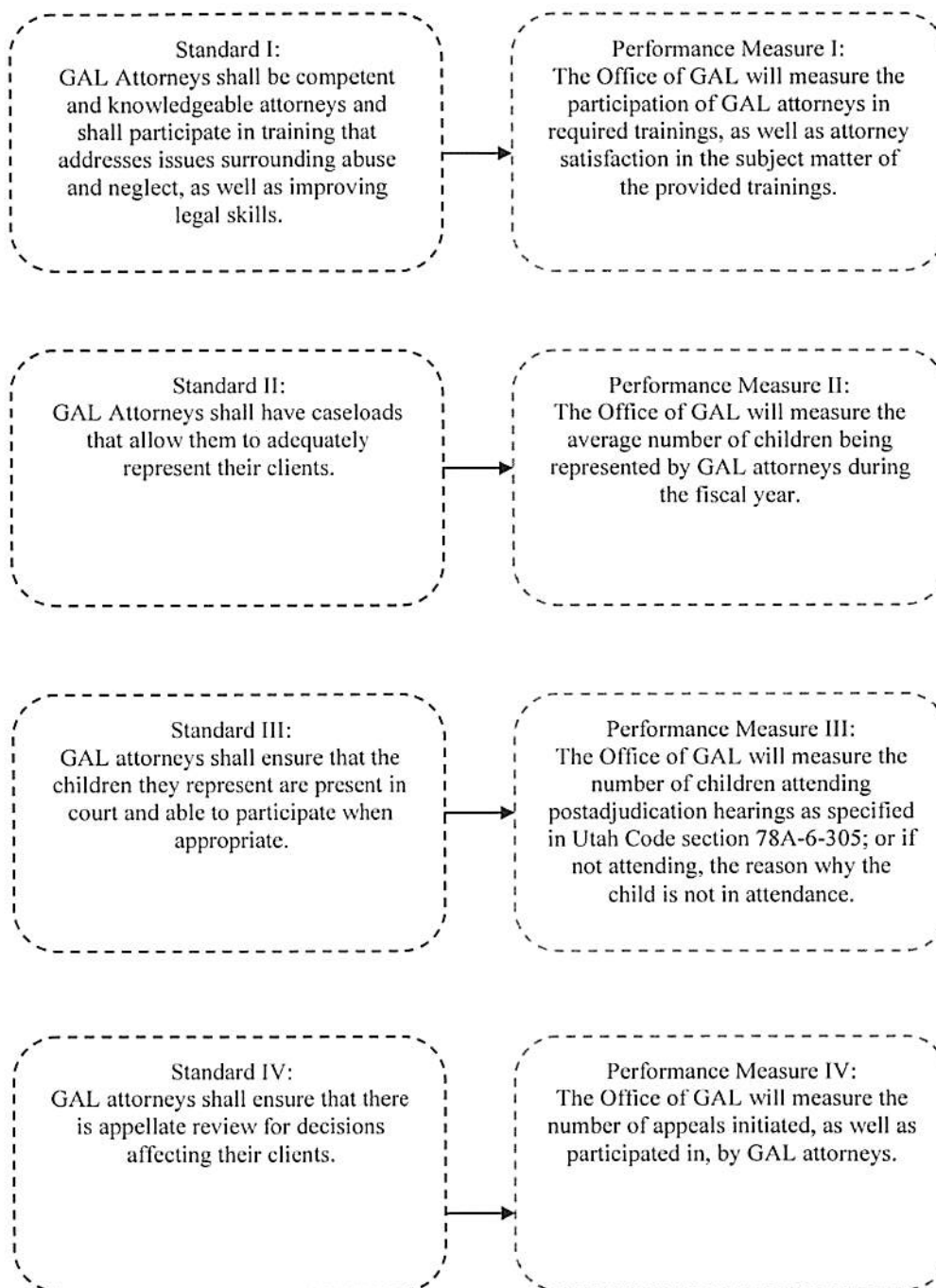
The Office of Guardian ad Litem (GAL) was given the following intent language in regard to performance measures by the Legislature during the 2013 General Session.

“The Legislature intends that the Guardian ad Litem (GAL) develop several options to measure performance and submit these to the Executive Offices and Criminal Justice Subcommittee for review and input during one of the 2013 interim meetings. Measures should include industry benchmarks, metrics from model state GAL offices, and other relevant metrics. After receiving input from the Subcommittee, the GAL is to report measures annually to the Subcommittee.”

In response to the above intent language, the Office of GAL developed standards and performance measures, and presented those to the Executive Offices and Criminal Justice Subcommittee on August 23, 2013. The Office of GAL is currently gathering data in regard to the performance measures, listed below, and will present that data to the Legislature at the end of FY2014.

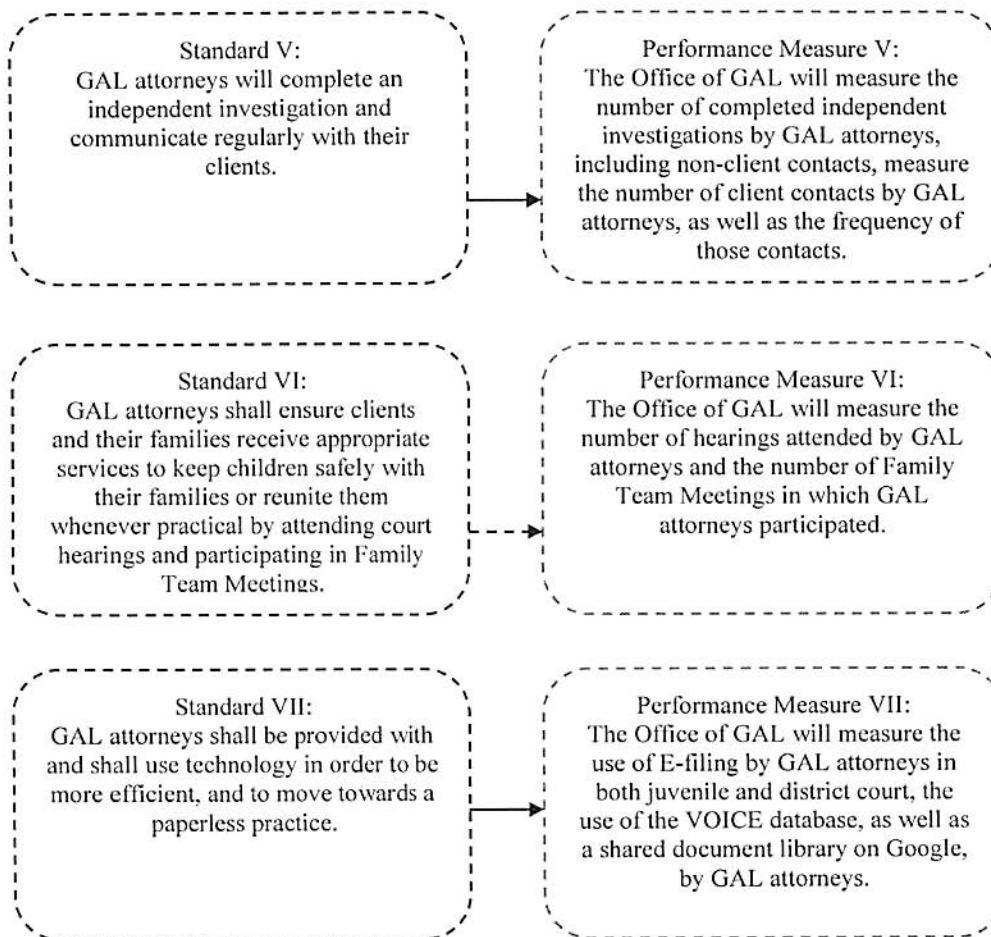
It is in the best interests of children to be raised under the care and supervision of their parents. However, when a parent is unable to provide a safe home to a child, and allegations of abuse, neglect or dependency are brought to the attention of the juvenile court, the Office of GAL is appointed to represent the best interests of that child.

# OFFICE OF GUARDIAN AD LITEM





# OFFICE OF GUARDIAN AD LITEM



# COURT APPOINTED SPECIAL ADVOCATE (CASA) PROGRAM

CASA volunteers continue to provide an amazing service to the Office of GAL and the children we represent. In order to grow and continue to provide support, the Legislature appropriated fifty-thousand dollars (\$50,000) for CASA volunteer coordination during the 2013 General Session. In an attempt to maximize the number of children that the CASA program can serve, the Office of GAL and CASA hired a new CASA coordinator in the Uintah Basin. The Uintah Basin has not had a CASA program for two years and given the growth in that area, the Office of GAL and CASA are committed to supporting our volunteer efforts in that area of the State.

In FY2013, the CASA program had **668** volunteers who served **1,246** children. CASA volunteers donated **36,062** hours on behalf of abused and neglected children in Utah.

Additionally, in an effort to address the growing educational concerns for children in the foster care system, the Utah Office of Guardian ad Litem and CASA recently increased our focus on educational advocacy. Children involved in the juvenile court process are twice as likely as the general population to be in need of special educational services. In order to address this concern, CASA volunteers are now trained to be educational advocates. Once assigned, the CASA advocate becomes familiar with the child's experiences, behavior, and early development, and completes an educational questionnaire that identifies the child's immediate educational needs. The CASA advocate also observes and speaks with the child, and communicates regularly with caregivers, teachers and service providers. If the child is found to have educational challenges, the advocate will work to locate all available resources to provide the child with the help he or she needs.

Early intervention and provision of necessary educational services assists greatly with reducing the need for services later. This approach encourages academic and social competence, which builds confidence and a foundation for future success, both of which are of great concern for the Utah Office of Guardian ad Litem and CASA.

## UTAH'S FRIENDS OF CASA

Utah's Friends of CASA is a 501(c)(3) nonprofit organization that invests in the Utah CASA program by providing supplemental funding for volunteer recruitment, training and retention. The Utah Friends of CASA Board supports the vision and mission of the Office of GAL and CASA Program, and in FY2013 sponsored "Building Bridges out of Poverty" Training for all Office of GAL attorneys, staff and CASA volunteers.



# PRIVATE GUARDIAN AD LITEM PROGRAM

The Private GAL (PGAL) Program continues to add attorneys to its roster, and with that growth, there are additional needs that have been identified. Specifically, the Office of GAL has recognized a need for more training and support to PGAL attorneys. In regard to training, the Office of Guardian ad Litem provided two opportunities for Continuing Legal Education (CLE) to all PGAL attorneys during the fall. One was held in Salt Lake City and was sponsored by the Litigation Section of the Utah State Bar. The other was held in St. George and was sponsored by the Southern Utah Bar Association. It is anticipated that additional training opportunities will be made available, including on-line trainings, in the upcoming months ahead. In regard to support, in addition to the Director, two staff attorneys in the Office of GAL provide support to attorneys participating in the PGAL program. These attorneys are available for consultation and are also gathering resources to be made available to all PGAL attorneys.

There are currently **107** Private Guardian ad Litem attorneys statewide who have agreed to take cases for a fee. Sixty-nine (**69**) attorneys have agreed to serve as Pro-Bono Private Guardian ad Litem attorneys.

While the Private GAL Program is growing, there are concerns about changes that will occur at the end of FY2014. Specifically, pursuant to legislation that was passed last session, on July 1, 2014, all district court proceedings involving the abuse and neglect of minors are to be handled by the PGAL program. Currently the Office of GAL is responsible for district court protective order hearings where children are involved; and district court proceedings where abuse or neglect has been pled and reported to the Division of Child and Family Service, and where both adult parties are indigent. The Office of GAL is concerned that it is untenable to have the PGAL Program assume responsibility for protective order hearings. The law requires that a hearing on a protective order be held within twenty (20) days of the ex-parte order being issued. It is difficult to have a private attorney assigned and prepared in such a short period of time. Accordingly, it is anticipated that many private attorneys would have to seek a continuance, which would result in a delay of the proceedings. This would be detrimental to both children and their families. Additionally, the Office of GAL is concerned that while additional attorneys are joining the Private GAL Program, there are insufficient resources for the Private GAL program to handle all of District Court proceedings involving abuse and neglect. This is especially concerning in the rural areas and for proceedings in which the parties have very few resources.

Based on these concerns, the Office of GAL is working with Legislators to reach a compromise that would allow the Office of GAL to continue to be responsible for all protective order hearings involving abuse or neglect; and district court proceedings where abuse or neglect is pled and reported, both adult parties are indigent, and there is no Private GAL reasonably available. The Office GAL believes that these amendments will address the concerns and protect the best interests of children.

# TAB 8

**Rule 4-~~503~~603. Mandatory electronic filing.**

Intent:

To require that documents in district court ~~civil~~criminal cases be filed electronically.

To provide for exceptions.

Applicability:

This rule applies in the district court.

Statement of the Rule:

(1) Except as provided in Paragraph (2), pleadings and other papers filed in ~~civil~~  
criminal cases in the district court on or after ~~April 1, 2013~~ March 31, 2014 shall be  
electronically filed using the electronic filer's interface.

(2)(A) A self-represented party who is not a lawyer may file pleadings and other  
papers using any means of delivery permitted by the court.

(2)(B) A lawyer whose request for a hardship exemption from this rule has been  
approved by the Judicial Council may file pleadings and other papers using any means  
of delivery permitted by the court. To request an exemption, the lawyer shall submit the  
request to the Judicial Council's General Counsel on a form approved by the Judicial  
Council.

(2)(C) ~~Pleadings and other papers in probate cases~~ The Information may be filed  
using any means of delivery permitted by the court until ~~July 1, 2013~~ January 1, 2015, at  
which time they shall be electronically filed using the electronic filer's interface.

(3) The electronic filer shall be an attorney of record and shall use a unique and  
personal identifier that is provided by the filer's service provider.

# **TAB 10**

## **Guardianship and Conservatorship Signature Program**

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### **(1) Objectives**

- (A) Provide judges with a roster of attorneys to appoint, in compliance with Section 75-5-303 and Section 75-5-407, to represent adult respondents in guardianship and conservatorship proceedings.
- (B) Provide a roster of attorneys willing to represent adult respondents in guardianship and conservatorship proceedings for no fee, but to be paid, as circumstances warrant, under Section 75-5-303.
- (C) Eliminate the expectation that the petitioner will recruit an attorney to represent the respondent. Eliminate the practice of an attorney representing the respondent after having given advice or having prepared pleadings for the petitioner.

### **(2) Administration**

- (A) The Access to Justice Coordinator will maintain the roster of volunteer attorneys, which will be shared with the Administrative Office of the Courts when there is a change in the roster.
- (B) The Executive Committee of the Elder Law Section, the Executive Committee of the Estate Planning Section, the Disability Law Center and Utah Legal Services will form a Board of Directors.
- (C) The Board will:
  - i. recruit attorneys to participate in the signature program;
  - ii. develop a curriculum for basic and continuing education in guardianship and conservatorship law and procedures;
  - iii. mentor volunteer attorneys as requested by an attorney;
  - iv. develop a law student and law graduate legal assistance component under Rule 14-807;
  - v. assist in placing clients.

### **(3) Judge's and clerk's role**

- (A) If the respondent to a petition filed under Section 75-5-301 does not have counsel of his or her own choice, the judge will refer the respondent to the signature program. If an adult respondent to a petition filed under Section 75-5-401 does not have counsel of his or her own choice, the judge may refer the respondent to the signature program.

- (B) If the judge refers a respondent to the signature program, the clerk will notify the volunteer attorneys for the district of the need to place the client. The client will be placed with the first attorney to accept the placement. If the clerk is not successful in placing the client, s/he will contact the Board or the Pro Bono Commission for the district to assist in placing the client.
- (C) If the petitioner in a petition filed under Section 75-5-301 or Section 75-5-401 is not represented by counsel, the judge may refer the petitioner to the Self Help Center for assistance, including possible inclusion in the pro bono program, the modest means program.
- (D) If possible, the judge will refer the respondent to the signature program in time for the respondent to be represented at the initial hearing.
- (E) If necessary, the judge may appoint a temporary guardian if the conditions of Section 75-5-310 are met.

**(4) Volunteering**

- (A) To volunteer for the signature program, an attorney must:
  - vi. be admitted to practice law in Utah and be a member of the Utah State Bar in good standing;
  - vii. volunteer through the pro bono survey;
  - viii. maintain malpractice insurance;
  - ix. accept the fee limits described in Section (6);
  - x. complete the basic curriculum in guardianship and conservatorship law and procedures;
  - xi. biannually complete at least 4 hours of MCLE in guardianship and conservatorship law and procedures;
  - xii. comply with the Rules of Professional Conduct, noting especially:
    - 1. Rule 1.1. Competence;
    - 2. Rule 1.2. Scope of Representation and Allocation of Authority Between Client and Attorney;
    - 3. Rule 1.3. Diligence;
    - 4. Rule 1.4. Communication;
    - 5. Rule 1.14. Client with Diminished Capacity;
    - 6. Rule 3.1. Meritorious Claims and Contentions; and
    - 7. Rule 3.3. Candor Toward the Tribunal; and
  - xiii. comply with Rule 14-301, Standards of Professionalism and Civility.



- (B) If a volunteer attorney does not have an e-filing account, the attorney may apply for a free account by submitting to the Access to Justice Coordinator an agreement and application for an e-filing account. The attorney will use the account only for clients represented as a result of placements under the signature program.

**(5) Attorney's responsibilities**

- (A) An attorney who has agreed to represent the respondent will:
- i. provide the client with an informed understanding of the client's legal rights and obligations and explain their practical implications;
  - ii. zealously assert the client's position under the statutes and rules;
  - iii. seek a result advantageous to the client consistent with requirements of honest dealing with others;
  - iv. examine the client's legal affairs and report them to the client; and
  - v. continue to represent the client until the conditions of Utah Code Section 75-5-303(3) or Section 75-5-407(3) have been met.
- (B) The attorney will also:
- i. contact the client;
  - ii. file for the judge's signature an order appointing the attorney;
  - iii. file a notice of appearance;
  - iv. help the client complete the income qualification form;
  - v. investigate the nature and extent of the client's alleged incapacity;
  - vi. investigate the nature and extent of the client's estate;
  - vii. investigate alternatives to guardianship;
  - viii. investigate whether all interested persons have been properly served with the appropriate notice of hearing and petition;
  - ix. investigate the priority of the proposed guardian;
  - x. assist the client in nominating a guardian or conservator if desired;
  - xi. investigate the proper limited authority of a guardian or conservator;
  - xii. present the client's proposals and contest proposals with which the client does not agree;
  - xiii. participate in mediation with or on behalf of the client;
  - xiv. ensure the adequacy of the findings of fact; and
  - xv. try the case if needed.

**(6) Income qualification and attorney fees**

Income* as a Percent of <u>Federal Poverty Guidelines</u>	Presumed* Maximum Hourly Fee*
Up to 125%	\$0
More than 125% to 200%	\$50
More than 200% to 300%	\$75
More than 300%	Determined by the court at the end of the proceedings.

\* There are no restrictions on income or assets to qualify for the program. In the normal course, the attorney's maximum hourly fee will be determined by the respondent's income alone. However, the judge may consider the respondent's assets when determining the hourly fee, even if the respondent's income is less than 300% of the federal poverty guidelines. The respondent's assets will need to be considered as a source for establishing and paying the fee when the respondent has substantial assets but low income and for other good cause.

Resolution of income qualification can be deferred until the end of the proceedings and the attorney and client have evaluated the client's estate and completed the income qualification form.

**(7) Assessment of costs and attorney fees**

**(a) Guardianship (with or without conservatorship)**

(A) The parties will pay their respective costs and attorney fees unless:

- i. the court determines that the petition is without merit, in which case the petitioner will pay the respondent's costs and attorney fees;
- ii. the court appoints the petitioner or the petitioner's nominee (and the petitioner is authorized by Section 75-5-311 to nominate a guardian), in which case the protected person will pay the petitioner's costs and attorney fees.

(B) The court may award costs under URCP 54. An attorney may present to the court a memorandum for costs under URCP 54 and an affidavit for attorney fees under URCP 73.

(C) The total award for costs and attorney fees paid by the protected person may not exceed 20% of the protected person's estate, including the

anticipated income in the year in which the guardian is appointed. The judge may limit payments based on the protected person's ability to pay.

- (D) The court may suspend the application of this section to prevent manifest injustice.

**(b) Conservatorship only**

- (A) The parties will pay their respective costs and attorney fees unless the court appoints the petitioner or the petitioner's nominee (and the petitioner is authorized by Section 75-5-410 to nominate a conservator), in which case the protected person will pay the petitioner's costs and attorney fees.
- (B) The court may award costs under URCP 54. An attorney may present to the court a memorandum for costs under URCP 54 and an affidavit for attorney fees under URCP 73.
- (C) The total award for costs and attorney fees paid by the protected person may not exceed 20% of the protected person's estate, including the anticipated income in the year in which the conservator is appointed. The judge may limit payments based on the protected person's ability to pay.
- (D) The court may suspend the application of this section to prevent manifest injustice.

**(8) Forms**

- Request for appointed counsel
- Income qualification form
- Order appointing counsel (Add HIPAA language.)
- Letter to client
- Client contract
- Notice of appearance
- Notice of withdrawal
- Memorandum of costs
- Affidavit of attorney fees
- Objection to costs and fees
- Order on costs and fees
- Agreement and application for an e-filing account
- ???

**(9) Things to do**

- Draft forms.
- Develop basic training module.
- Work with MCLE Board to keep records of minimum education component.

**Draft: September 30, 2013**

- Work with clerks to establish procedures to identify qualifying cases and take appropriate steps as soon as possible after the petition is filed.
- Find out whether CORIS can help with the notice to lawyers.
- Develop uniform script of clerk's email to attorneys.
- Develop uniform script of CORIS entry of referral and placement. Develop CORIS query to report referrals and placements.
- Include on the court's webpage.
- Include in judges' benchbooks and clerks' manuals.

# **TAB 11**



Chief Justice Matthew Durrant  
Chair, Utah Judicial Council

## **MEMORANDUM**

Daniel J. Becker  
State Court Administrator  
Raymond H. Wahl  
Deputy Court Administrator

**To: Judicial Council Management Committee**  
**From: Courts Facility Planning Committee**  
**Date: October 2, 2013**  
**Re: Courts Facility Planning Committee Membership**

---

Judge James Davis has been appointed to the Judicial Council and is no longer eligible to represent the Court of Appeals on the Courts Facility Planning Committee. The Court of Appeals has recommended Judge Stephen Roth fill this position.

Judge Davis also served as the Chair of the Courts Facility Planning Committee and the committee is requesting Judge Charles Behrens be appointed by the Judicial Council as the new chair. Judge Behrens has agreed to accept this appointment.

The Committee requests the appointment of Judge Stephen Roth to fill the Appeals Court position on the committee.

The Committee also requests the appointment of Judge Behrens to serve as committee Chair.

Thank you for your consideration.

The mission of the Utah judiciary is to provide the people an open, fair,  
Efficient, and independent system for the advancement of justice under the law.

**Agenda Item for the Management Committee Meeting**

**Standing Education Committee's Nominee to Replace Jason Ralston**

The Rules governing the composition of the Standing Education Committee require a "data processing manager" to serve on that standing committee. During the Standing Education Committee's September 27, 2013 meeting, the following three names were presented for the committee's consideration to fill Mr. Ralston's vacant position:

Mr. Dave Hayward (bio attached)

Ms. Wendy Densley (bio attached)

Ms. Stacy Walker (bio attached)

The committee had a difficult time selecting from such three outstanding candidates. However, with considerable deliberation, Ms. Tracy Walker was selected as the nominee to be placed before the Management Committee's consideration.

Respectfully submitted,

Tom Langhorne

Judicial Institute Director

**Tracy Walker**

My name is **Tracy Walker**; I began my court career at the Matheson courthouse thirteen years ago. In the beginning I worked on a pilot project to manually scan images of judgment documents, which would then be electronically stored, in hopes to one day destroy the paper files.

After one year the project was disbanded and I then served as Judge Medley's front office clerk for approximately six years; from there I supervised the Debt Collection Team and then became a Team Manager during the restructuring process. I have been in my current position with the AOC - IT eFiling Team for one year.

During my tenure with the courts I have served on several committees, including the Education Committee as the Third District Court representative and the Third District Court Education Liaison.



## **Dave Hayward**

I would very much like to serve on the Education committee. After my time on the Employee Recognition Committee, I found that there are many, wonderful people here at the courts that I don't see on a day-to-day basis. It is good interacting with co-workers that I don't see normally.

As requested, here is a short bio:

Graduated from BYU in 1994 with a Bachelor of Science in Mechanical Engineering.

Worked for Electronic Data Systems (EDS) from 1994-2000 for both General Motors and Smith's Food and Drug.

Worked briefly for a Dot Com from 2000-2001.

Started with the Courts on Sept. 10, 2001. (the day before 9-11)

I'm married with 3 kids.

Enjoy working with my wife on Community Theater and Jr. High Musicals (mostly behind the scenes, but occasionally on stage).

And I love being an armchair quarterback for BYU.

Wendy Densley

Hi Tom,

I'm honored to be one of the nominees for the Standing Education Committee. My Bio follows:

Wendy Densley is an Infrastructure Support Specialist. She received her Associates in Criminal Justice from Salt Lake Community College, and graduated Phi Theta Kappa. Prior to working for the Information Technology Department she was the in-court clerk for Judge Fratto. Ms. Densley has taught classes at past Judges Conferences as well as taught district and justice court clerks how to use CORIS. When she isn't glued to a computer screen, she spends time in the garden, playing with her dogs, and learning more about essential oils. She's currently reading *The Slight Edge*, by Jeff Olson.

Wendy

# Utah Court of Appeals

Chambers of  
Judge Carolyn B. McHugh

450 South State Street  
Salt Lake City, Utah 84114 - 0230  
(801) 578-3950  
FAX (801) 238-7981

October 1, 2013

Judicial Council  
Management Committee  
Matheson Courthouse  
450 South State Street  
Salt Lake City, Utah 84111

Attention: Jody Gonzales

Re: The Standing Committee on Court Technology

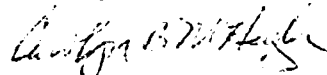
Dear Council Members:

The Technology Committee develops and makes recommendations to the Judicial Council relating to the plans, priorities, and strategies that guide and govern technology as applied to Utah's courts and management structure.

There exists a vacancy on the Committee consisting of one of the two staff members of the Administrative Office of the Courts. The Administrative Office has nominated Dawn Marie Rubio to fill the position left vacant by Lisa Michele Church's resignation.

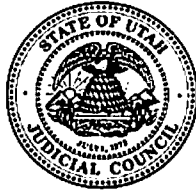
I request you act favorably on the nomination of <sup>Dawn Marie</sup>~~Lisa Michele~~ Rubio to the Technology Committee.

Sincerely,



Carolyn B. McHugh  
Presiding Judge,  
Utah Court of Appeals

c: Ron Bowmaster



## Administrative Office of the Courts

Chief Justice Matthew B. Durrant  
Utah Supreme Court  
Chair, Utah Judicial Council

October 21, 2013

Daniel J. Becker  
State Court Administrator  
Ray Wahl  
Deputy Court Administrator

### MEMORANDUM

**TO: Judicial Council**

**FROM: Mark Bedel, District Court Program Administrator**

**RE: Recommendation for appointment to the Judicial Council's Ethics Advisory Committee**

---

Judge Randall Skanchy was recently appointed to the Judicial Council. He was a member of the Ethics Advisory Committee. Because he is on the Council he can no longer serve on the ethics committee.

Rule 1-205 on standing and ad hoc committees provides that the Ethics Advisory Committee shall consist of one judge from the Court of Appeals, one district court judge from Judicial Districts 2, 3, or 4, one district court judge from Judicial Districts 1, 5, 6, 7, or 8, one juvenile court judge, one justice court judge, and an attorney from either the Bar or a college of law. Judge Skanchy serves in the Third District.

Having considered the recommendations from the Board of District Court Judges of interested judges in Districts 2, 3, and 4, the Management Committee recommends that Judge Samuel McVey, District 4 presiding judge, be appointed to replace Judge Skanchy on the Ethics Advisory Committee.

The mission of the Utah judiciary is to provide an open, fair,  
efficient, and independent system for the advancement of justice under the law.

# TAB 12

**Judicial Council Grant Application Proposal  
Code of Judicial Administration 3-411**

**FEDERAL GRANTS**

Contact Person/Phone: Ron Bowmaster Date: 8/28/2013

Judicial District or Location: AOC/Information Technology Division

Grant Title: CORIS Data Exchange using NIEM standard Grantor: CCJJ

Grant type (check one): ☒ New ☐ Renewal ☐ Revision

Grant Level (check one): ☒ Low ☐ Med. ☐ High.  
Under \$1,000,000 \$1,000,000 to \$10,000,000 Over \$10,000,000

Issues to be addressed by the Project: Rewrite criminal disposition reporting to the Department of Public Safety in response to their project to rewrite the criminal history system.

Explanation of how the grant funds will contribute toward resolving the issues identified: The Department of Public Safety is rewriting the criminal history system which will change the way the court reports criminal dispositions. The grant funds will be used for contract programmers to make the changes in the court's criminal disposition reporting system. The funds will also be used to upgrade the hardware that will be used to report dispositions.

Fill in the chart(s) for estimated state fiscal year expenditures for up to three years:

**Total Funding Sources**

			(PROVIDE EXPLANATION OF ALL MATCHES IN THE COMMENTS SECTION)					
			MATCHING STATE DOLLARS					
		Other Matching Funds from Non-State Entities	General Fund	Dedicated Credits	Restricted Funds	Other (Write In)	Maintenance of Effort	Total Funds
<b>CASH MATCH</b>								
State Fiscal Year	Grant Amount							
FY								\$0
FY								\$0
FY								\$0

**IN-KIND MATCH**

			(PROVIDE EXPLANATION OF ALL MATCHES IN THE COMMENTS SECTION)					
			MATCHING STATE DOLLARS					
		Other Matching Funds from Non-State Entities	General Fund	Dedicated Credits	Restricted Funds	Other (Write In)	Maintenance of Effort	Total Funds
State Fiscal Year	Grant Amount							
FY 2014	\$85,334	\$10,666						\$96,000
FY								\$0
FY								\$0

Comments:

Will additional state funding be required to maintain or continue this program or its infrastructure when this grant expires or is reduced? Yes ☐ No ☒ If yes, explain:

Will the funds to continue this program come from within your existing budget. Yes ☒ No ☐ N/A ☐

How many additional permanent FTEs are required for the grant? 0 Temp FTEs: 0

This proposal has been reviewed and approved by the following:  
The court executives and judges in the affected district(s).  
The Grant Coordinator and the Budget Manager at the Administrative Office of the Courts.  
The affected Board(s) of Judges

Approved by the Judicial Council \_\_\_\_\_ by \_\_\_\_\_  
Date Court Administrator

Copy forwarded to Legislative Fiscal Analyst \_\_\_\_\_  
date

<b>State of Utah</b> <b>Commission on Criminal and Juvenile Justice</b> Utah State Capitol Complex East Office Building, Suite E330 Salt Lake City, Utah 84114-2330 Ph: (801) 538-1031 Fax: (801) 538-1024  <b>National Criminal History Improvement (NCHIP)</b>		1. Your Agency Name and Address:  Administrative Office of the Courts - AOC  450 South State Street  Salt Lake City, UT 84111-3101	
2. Level of Government (check one)  <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> State         </div> <div> <input type="checkbox"/> City         </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div> <input type="checkbox"/> County         </div> <div> <input type="checkbox"/> Private non-profit or faith based         </div> </div>		3. Phone Number: (801) 578-3800  Fax Number: 801-578-3968  E-mail Address: ronb@utcourts.gov	
4. Federal Tax Identification Number (87-?????)  87-6000545		5. Grant Start Date and End Date:  September 1, 2013 – August 31, 2014	
6. Project Title: CORIS Data Exchange using NIEM standard			
<b>7. Budget Summary</b>		<b>NCHIP Grant Funds</b>	<b>10% Match</b>
Personnel		\$ 0.00	
Contract Services		\$ 66,000.00	\$ 10,666.00
Equipment, Supplies, & Operating (ESO)		\$ 30,000.00	
Travel/Training		\$ 0.00	
Column Totals		\$ 96,000.00	\$ 10,666.00
8. *Print Name and Title of Official Authorized to Sign  <b>Daniel J Becker, Court Administrator</b>		9. Print Name and Title of Project Director  <b>Ron Bowmaster, Director</b>	
10. *Signature of Official Authorized to Sign		11. **Signature of Project Director	
<b>For CCJJ use ONLY</b>			
<b>Ronald Gordon,</b> <b>Executive Director of CCJJ</b>			

\* The Project Director is the individual responsible for the day-to-day management of the grant program.



Gary R. Herbert  
Governor  
Ronald B. Gordon, Jr.  
Executive Director

## State of Utah

### COMMISSION ON CRIMINAL AND JUVENILE JUSTICE

Suite E330, Senate Building • PO Box 142330, Salt Lake City, Utah 84114  
801-538-1031 • Fax: 801-538-1024 • [www.justice.utah.gov](http://www.justice.utah.gov)

August 27, 2013

Ron Bowmaster  
Administrative Office of the Courts  
450 S State St,  
Salt Lake City UT 84129

Dear Ron,

It is my privilege to inform you that the Utah Commission on Criminal and Juvenile Justice (CCJJ) has approved an award in support of the *Criminal Disposition Reporting Grant* in the amount of \$ 96,000. Please use the assigned grant number, 13H02, in all correspondence regarding this project. The award period is from September 1, 2013 through August 31, 2014.

By accepting this award, you assume certain administrative and financial responsibilities including the timely submission of all financial and programmatic reports, and resolution of all audit findings. Should your organization not adhere to the terms and conditions of this award, it is subject to termination for cause or other administrative action as appropriate. For these reasons, I encourage you to read the Certified Assurances and Grant Conditions, as they summarize important grant management issues.

All CCJJ grants are based on the reimbursement of actual costs. No funding will be provided up-front. Also, do not begin spending funds prior to the start date of your award or on any item not approved in your grant budget or an approved grant adjustment.

Please note that Narrative Progress Reports, Financial Status Reports (FSR), and Program Income Reports (where applicable) are due quarterly on January 15, April 15, July 15 and October 15 each year.

Note that all project-related materials and accounting records must be maintained for a period of three years from the date of your last financial status report, unless an audit has been initiated or unresolved audit findings remain. All records must be maintained until the audit findings are resolved.

If you have any questions regarding this award, please contact me at (801) 538-1047 or e-mail [clairwebster@utah.gov](mailto:clairwebster@utah.gov). We look forward to working with you in the months ahead.

Sincerely,

Clair Webster



# TAB 13

October 22, 2013

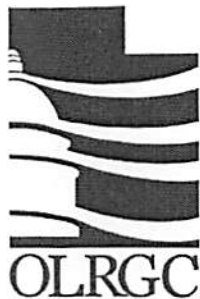
**To:           Members of the Judicial Council**

**From:       Dan Becker**

**Subject:     Appointment to the Utah State Retirement Board's Membership Council**

Judge Greg Orme has completed a four year term on the above Council and is not eligible for reappointment. The Management Committee recommends the appointment of Judge James Davis as the Judicial Council representative for the 2013-2017 term.

**ADDITIONAL COUNCIL  
MEETING HANDOUTS**



# INTERIM HIGHLIGHTS

Office of Legislative Research and General Counsel  
House Building, Suite W210 • Salt Lake City, Utah 84114 • (801) 538-1032

## LEGISLATIVE INTERIM MEETINGS

*Meetings were held Wednesday, October 16, 2013, or as noted.*

### Administrative Rules Review Committee

*September 30, 2013*

#### Administrative Rulemaking Amendments

Discussed revised draft legislation "Administrative Rulemaking Amendments," which was previously discussed in the September 16 meeting. The draft bill:

- Clarifies the penalty for an agency's failure to timely comply with the statutory requirement for a five-year administrative rules review;
- Modifies the five-year review filing requirements; and
- Provides that the Division of Administrative Rules' failure to give an agency notice of a five-year review deadline does not exempt an agency from complying with the provisions of the bill.

*Action: Approved as a committee bill, draft legislation "Administrative Rulemaking Amendments."*

#### Confidentiality Agreement for Parent Review Committee

Discussed the confidentiality agreement that members of the new 15-member parent review committee, created in 2012 General Session H.B. 15, "Statewide Adaptive Testing," to review the computer adaptive test questions for common core, must sign and how it can be written to allow parents to discuss any concerns regarding the test questions while preserving the integrity of the test.

#### Educator Evaluation Data

Discussed whether recent amendments to a State Board of Education administrative rule R277-487, "Public School Data Confidentiality and Disclosure," narrow the intent of Utah Code Subsection 53A-3-602.5(1) that provides that the written school performance report, developed by the State Board of Education, "inform the state's residents of the quality of schools and the educational achievement of students in the state's public education system."

*Chairs: Rep. Curtis Oda / Sen. Howard A. Stephenson  
Staff: Art L. Hunsaker (Policy Analyst) / Christine R. Gilbert (Attorney) / Tracey Fredman (Secretary)*

### Business and Labor

#### Alcoholic Beverage Control

Received a presentation from the Pacific Institute for Research and Evaluation at the Alcohol, Policy, and Safety Research Center, which recommends that the legal blood alcohol level for operating a motor vehicle be reduced from .08 to .05. Also received public comment regarding alcohol consumption and the taxation of alcoholic products.

#### Disclosure of Consumer Credit Scores

Received information from a legislator on the disclosure of consumer credit scores by various organizations, including national credit reporting agencies. Also received comments from the public.

#### Insurance Code Changes

Received a presentation from the Insurance Department on proposed changes to the Insurance Code.

*Chairs: Rep. James A. Dunnigan / Sen. Curtis S. Bramble  
Staff: Bryant R. Howe (Assistant Director) / Christine R. Gilbert (Attorney) / Patricia Owen (Attorney) / Kristen C. Ricks (Secretary)*

### Economic Development and Workforce Services

#### Child Care Subsidy Program

Received a follow-up report from the Department of Workforce Services on the Child Care Assistance Program. The program provides child care assistance to low-income families to enable parents to work outside the home. The current child care assistance subsidy rate for Utah is 43 percent of the cost of care assistance, but the desired rate is 75 percent of the cost. The department requested an appropriation from the General Fund to reach the desired rate. The department has not received money from the General Fund since 2009.

#### Economic Mobility for Utah Residents

Received a report from the Utah Foundation, "Climbing Toward the American Dream, a Second Analysis of Economic

*(Continued next page)*

#### IN THIS ISSUE:

Pages 1-9 Summaries of Legislative Meetings

Mobility in Utah," which was released in August 2013. The report provides an analysis of the ability of Utah residents to move on the economic ladder and includes details on mobility across generations, income, wealth, and housing.

### Free Market Protection and Privatization Board Report

Received a statutorily required annual report from the Governor's Office of Management and Budget on the Free Market Protection and Privatization Board regarding the board's activities, the board's recommendations on privatizing an activity provided by an agency, and the status of the Commercial Activities Inventory and Review.

### Refugee Program

Received a report from the Department of Workforce Services on the refugee services program, which provides cash and medical assistance to newly arriving refugees, new asylees, and victims of human trafficking. Assistance is based on need and may only be provided during the first eight months after arrival. In FY 2012, the department provided assistance to 394 individuals.

### Management of Agency Reports and Information

Received a report from committee staff and the Department of Workforce Services, the Department of Heritage and Arts, and the Governor's Office of Economic Development on improving the process of providing needed reports and other information on an annual basis to the committee and to the public.

*Action: Directed committee staff to prepare legislation to provide for consolidation of annual agency reports into a comprehensive annual report from the Department of Workforce Services, the Department of Heritage and Arts, and the Governor's Office of Economic Development.*

### Unemployment Insurance Program

Received information from the Department of Workforce Services on draft legislation that the committee had directed staff to prepare to address issues raised by the Department of Workforce Services.

*Action: Approved as a committee bill, draft legislation "Workforce Services Amendments," which removes a provision regarding the overlapping of base periods when determining when certain benefits costs will not be charged to an employer for unemployment insurance claims.*

*Chairs: Rep. Rebecca P. Edwards / Sen. Aaron Osmond  
Staff: Benjamin N. Christensen (Policy Analyst) / Peter Asplund (Attorney) / Debra Hale (Secretary)*

### Economic Development Task Force

October 17, 2013

### Potential Task Force Recommendations

Discussed potential task force recommendations for continued economic development success in Utah.

(Continued next column)

*Action: Directed that the task force chairs and staff consolidate and refine potential task force recommendations for future consideration.*

*Chairs: Rep. Brad R. Wilson / Sen. Stuart C. Reid  
Staff: Benjamin N. Christensen (Policy Analyst) / Peter Asplund (Attorney)  
Jennifer K. Christopherson (Secretary)*

### Education

#### Funding for Public Schools

Reviewed draft legislation, "School Funding Through Income Tax Revisions," which eliminates the personal exemption from state personal income taxes and directs the new revenue generated to public schools. Ten percent of the new revenue would be allocated in an equal amount to each public school and the remainder would be allocated to public schools on a per student basis.

#### Investment of State School Fund

Received a report of the School Trust Investment Task Force, which was created by the State Board of Education to study the governance and management of the permanent State School Fund. The School Trust Investment Task Force recommended that:

- An independent board be created with responsibility to manage the State School Fund; and
- Policy on the distribution of State School Fund money be studied.

The Utah state treasurer identified legal issues relating to the recommendations of the School Trust Investment Task Force.

#### Utah Schools for the Deaf and the Blind

Received the annual report of the Utah Schools for the Deaf and the Blind. The superintendent of the Utah Schools for the Deaf and the Blind requested that a new facility be built in Salt Lake County to replace buildings in need of significant repair and leased space currently in use.

*Chairs: Rep. Francis D. Gibson / Sen. Stuart C. Reid  
Staff: Constance C. Steffen (Policy Analyst) / Tiffany A. Stanley (Policy Analyst) / Angela Oakes Stallings (Attorney) / Debra Hale (Secretary)*

### Education Task Force

September 26, 2013

#### Best Practices of High Achieving At-risk Schools

Received comments from 10 principals regarding implemented strategies that result in high student achievement. The principals represented schools that have a high proportion of at-risk students and received an A or B grade on the 2012-13 school year school grading report.

#### College and Career Advisement and Counseling

Reviewed a proposal to establish a pilot program in high schools to hire college and career coaches who would provide information to students on how to prepare, apply, and pay for

(Continued next page)

postsecondary education as well as information on careers, career pathways, and educational requirements. Unlike a school counselor, a college and career coach would not be required to have a graduate degree.

### Perspectives on Student Achievement

Received a report on from education stakeholders regarding strategies to improve student learning.

The task force chair highlighted the following points discussed by the group:

- Focusing on student learning or outputs rather than inputs;
- The importance of soft skills and character education;
- Strategies to improve teacher quality, including year-long internships and professional development, targeted to improve instruction;
- Technology as a tool for learning and the need for educators to learn how to use technology; and
- The need to help students make the connection between school and careers.

*Chairs: Speaker Rebecca D. Lockhart / President Wayne L. Niederhauser  
Staff: Constance C. Steffen (Policy Analyst) / Tiffany A. Stanley (Policy Analyst) / Angela Oakes Stallings (Attorney) / Debra Hale (Secretary)*

### Government Communications Task Force

October 10, 2013

#### DTS and UCAN Merger

Received an update on the merger of the radio communications part of the Department of Technology Services and the Utah Communications Agency Network.

#### Radio Communications — Use of 800 MHz and 150 MHz

Discussed the plan for the future use of 800 MHz and 150 MHz radio communication systems in Utah.

#### Technical Working Group

Received recommendations from a working group that discussed options on how best to proceed in solving technical and budgetary problems relating to radio communications.

*Chairs: Rep. Brad L. Dee / Sen. Wayne A. Harper  
Staff: Joseph T. Wade (Policy Analyst) / Victoria Ashby (Attorney) / Tracey Fredman (Secretary)*

### Government Operations

#### Constitutional Officers and Personal Vehicles

Discussed code provisions that allow constitutional officers to use state-provided vehicles for personal and private use. The committee determined that no significant problems exist and no revisions are needed at this time.

### Election Offense Amendments

Discussed draft legislation "Election Offense Amendments," which amends provisions related to investigating and adjudicating election complaints.

### Firefighter Procurement Code Exemptions

*Action: Approved as a committee bill, draft legislation "Amendment to Procurement Code Exemptions," which exempts from the Utah Procurement Code purchases of certain firefighting equipment by the Division of Forestry, Fire, and State Lands.*

### Governmental Purchases from the Division of Correctional Industries

Discussed draft legislation "Governmental Purchases from the Division of Correctional Industries," which:

- Requires the executive branch to purchase from the Division of Correctional Industries items that the division produces;
- Establishes rulemaking authority to provide for exemptions; and
- Establishes an appeal process for procurement decisions.

### Procurement Code Revisions

Received a presentation from the Division of Purchasing and General Services on recommendations for revisions to the Utah Procurement Code. Potential revisions include changes to the handling of gratuities and kickbacks, clarification on the definition of a request for statement of qualifications, changes to state contracting processes, and other technical corrections.

### School Construction Amendments

Discussed draft legislation "School Construction Amendments," which requires local education agencies to follow the Utah Procurement Code when constructing a public facility and follow certain retention requirements in the contracting process.

### Seasonal Crop Sales — Construction Code Exemptions

*Action: Approved as a committee bill, draft legislation "State Construction Code Amendments," which exempts from the state construction code a structure that is solely used by a producer to sell certain seasonal crops.*

*Chairs: Rep. Jack R. Draxler / Sen. Margaret Dayton  
Staff: Brian J. Bean (Policy Analyst) / Thomas R. Vaughn (Attorney) / Anna M. Allen (Secretary)*

### Health and Human Services

#### Controlled Substance Database Access by Medicaid Accountable Care Organizations

Considered whether the state should grant Medicaid Accountable Care Organizations limited access to the state's controlled substance database in order to support Medicaid's

Restriction Program. The Restriction Program prevents inappropriate and excessive use of Medicaid services by limiting a client to one primary care provider and one pharmacy.

*Action: Prioritized the drafting of legislation that would grant Medicaid Accountable Care Organizations limited access to the state's controlled substance database.*

### Federal Government Shutdown

Discussed impacts of the partial federal government shutdown on Utahns and Utah businesses. Recognized the attendance of staff representing three members of Utah's congressional delegation.

Following the discussion, those representatives answered questions about the shutdown. Received letters regarding the shutdown from two other members of the congressional delegation.

### Sunset Review — Utah Health Data Authority Act

*Action: Approved as a committee bill, draft legislation "Reauthorization of Utah Health Data Authority Act," which changes the sunset date for the Utah Health Data Authority Act to 2024 and amends the data-sharing authority of the Utah Health Department's Health Data Committee.*

### Underage and Binge Drinking

Considered draft legislation "Beer Excise Tax Amendments," which funds programs to prevent underage and binge drinking of alcohol by increasing the beer tax. Received presentations from researchers on programs designed to reduce alcohol misuse and on the gap between the costs of alcohol misuse and the revenue generated by alcohol consumption. Considered concerns about the bill raised by the Utah Beer Wholesalers Association, the Utah Food Industry Association, the Utah Retail Merchants Association, and the Utah Taxpayers Association.

*Chairs: Rep. Paul Ray / Sen. Evan J. Vickers*

*Staff: Mark D. Andrews (Policy Analyst) / Samuel C. Johnston (Attorney) / Cathy J. Dupont (Attorney) / Lee A. Killian (Attorney) / Lori R. Rammell (Secretarial Supervisor)*

## Health Reform Task Force

*October 17, 2013*

Received reports from the three Utah organizations that have received federal funding to educate people about the federal government's health insurance exchange for individuals and families, which opened October 1.

Received a report from the task force's Insurance Market Team on a study to determine what would be required for the state to run its own risk adjustment program under the federal Patient Protection and Affordable Care Act.

Received a report from the Health Department on Medicaid eligibility expansion options studied by the Governor's Medicaid Expansion Options Community Workgroup. Many of the options would require a federal waiver of certain Medicaid requirements.

Also received a report from the department on the recommendations of five workgroups created by the governor to develop a health innovation plan for the state. The recommendations address health information technology, the health care workforce, prevention and wellness, payment reform, and quality and safety.

*Action: Voted to support and encourage the Insurance Department to continue working on a state-run risk adjustment program and to continue pursuing an exchange establishment grant to upgrade the state's All-payers Claims Database.*

*Action: Voted to support use of the exchange grant for enhancement of the All-payers Claims Database when it is reviewed by the Executive Appropriations Committee.*

*Chairs: Sen. Allen M. Christensen / Rep. James A. Dunnigan*

*Staff: Mark D. Andrews (Policy Analyst) / Cathy J. Dupont (Associate General Counsel) / Samuel C. Johnston (Associate General Counsel) / Lori R. Rammell (Secretarial Supervisor)*

## Judiciary

### Administrative Subpoenas

Reviewed draft legislation, "Administrative Subpoena Reporting Requirements," which amends the reporting requirement in Utah Code Subsections 77-22-2.5 (9) and (10) to provide a more accessible report, as prepared by the Commission on Criminal and Juvenile Justice. The committee discussed the legislation, as well as other policy considerations related to reporting data collected by the issuance of administrative subpoenas.

### Annual Reports

Received presentations from the Commission on Criminal and Juvenile Justice and the Department of Workforce Services on annual statutorily required reports. The Commission on Criminal and Juvenile Justice presented DUI-related data and reported that in CY 2011 to CY 2012, DUI and drug-related fatalities increased from 30 to 37.

The Department of Workforce Services presented on the Intergenerational Welfare Reform Commission's annual report, which is part of the Legislature's efforts to end intergenerational poverty in Utah. The report provides poverty-related data and an in-depth analysis on the commission's current studies.

### Court System Modifications

Received a presentation from a legislator on draft legislation, "Court System Modification Amendments," which creates a new circuit court with limited jurisdiction. The Administrative Office of the Courts presented on the history of circuit courts in Utah and recent policy changes in justice courts related to the selection, retention, and compensation of judges.

*Chairs: Rep. Kay L. McIlff / Sen. Mark B. Madsen*

*Staff: Chelsea B. Lloyd (Policy Analyst) / Esther Chelsea-McCarty (Attorney) / Kristen C. Ricks (Secretary)*

## Law Enforcement and Criminal Justice

### Concealed Weapon Permit Fees

The committee received a statutorily required report from the Bureau of Criminal Identification on the amount and use of fees collected for concealed firearms permit applications. The bureau projects 138,720 application requests for 2013. This number is an increase over the 81,122 requests in 2012 and 76,943 requests in 2011.

### Drug Offender Reform Act

Received a status update from the Utah Substance Abuse Advisory Council regarding the report on the Drug Offender Reform Act that is to be provided to the committee on November 1, 2013. The report will include information and analysis that has not previously been available regarding participants in the Drug Offender Reform program versus offenders who have not participated.

### Housing State Inmates in County Jails

Received a report from the Utah Department of Corrections regarding the state's use of county jail facilities to house state inmates and the contracted rates at which the state reimburses the jails. The Department of Corrections uses this practice to manage its inmate population when the number of state inmates exceeds the number of available prison beds.

### Prison Facilities in Other States

Received a presentation from a legislator regarding a tour of prison facilities in other states, including privately operated prison facilities.

*Chairs: Rep. Curtis Oda / Sen. Todd Weiler*

*Staff: Nathan W. Brady (Policy Analyst) / Susan Creager Allred (Attorney) / Lori R. Rammell (Secretarial Supervisor)*

## Legislative Management Committee

*October 14, 2013*

Received a presentation from the Division of Risk Management concerning two settlement agreements the division has entered into recently, but which need the committee's approval in order to be finalized.

Received notification from committee staff that the Prison Relocation and Development Authority, to which four legislators are appointed, was not placed on the list of authorized committee meetings at the beginning of the interim.

Received a presentation from committee staff regarding the legislative intern program, including the cost of the current program and the increased cost of the program if it were expanded by 15 more interns.

**Action:** *Approved a motion recommending that the executive branch enter into the two settlement agreements presented by the Division of Risk Management.*

*(Continued next column)*

## INTERIM HIGHLIGHTS • October 2013

**Action:** *Approved the placing of the Prison Relocation and Development Authority on the list of approved meetings in order for those legislators appointed to the committee to receive compensation.*

**Action:** *Authorized the Office of Legislative Research and General Counsel to work with the state's colleges and universities to increase by up to 15, the number of interns working for the Legislature during the legislative session.*

*Chair & Vice Chair: President Wayne L. Niederhauser / Speaker Rebecca D. Lockhart  
Staff: Michael E. Christensen (Director) / John L. Fellows (General Counsel) / Phalin L. Flowers (Administrative Assistant)*

## Natural Resources, Agriculture, and Environment

### Executive Water Task Force Report

Received a report from the Department of Natural Resources on requests for legislation recommended by the Executive Water Task Force.

**Action:** *Passed a motion to, under committee sponsorship, open and prioritize bill files that incorporate the changes recommended by the Executive Water Task Force by amending Utah Code Sections 17-21-6, 73-3-26, 73-3-18, 73-5-3, and 73-3-29.*

### Management Plans for Water Conveyance Facilities

Received a report from the Board of Water Resources on water conveyance facilities reporting requirements that are intended to improve canal safety in those areas where potential risk to human life or extensive economic loss exist.

### Utah Outdoor Recreation Report

Received a report from the Utah Office of Outdoor Recreation on the organization and objectives of the newly created office.

### Reduction of Nutrient Pollution in Utah Waters

Received a report from the Division of Water Quality, Division of Wildlife Resources, Utah Waterfowl Association, and the Utah Office of Outdoor Recreation on the need to reduce nutrient pollution in Utah waters. The committee discussed the elements of potential legislation proposed by the Department of Agriculture and Food.

### Wolf Management in Utah

Received a review of the audit conducted by the Office of the Legislative Auditor General on appropriated funds for wolf management.

The Division of Wildlife Resources responded to the review and gave an update on the status of delisting of wolves under the Endangered Species Act.

*Chairs: Rep. Michael E. Noel / Sen. Scott K. Jenkins  
Staff: J. Brian Allred (Policy Analyst) / RuthAnne Frost (Attorney) / Anna M. Allen (Secretary)*



## Occupational and Professional Licensure Review Committee

October 15, 2013

### Alternatives to Licensing

Received information regarding less restrictive alternatives to licensure, including registration, certification, bonding, title licensing, and promoting the use of private markets and the judicial system.

### Sunset Review — Massage Therapy Practice Act

*Action: Approved as a committee bill, draft legislation "Reauthorization of the Massage Therapy Licensing Act," which changes the sunset date of the act to July 1, 2024.*

*Chairs: Rep. Derek E. Brown / Sen. John L. Valentine  
Staff: Bryant R. Howe (Assistant Director) / Peter Asplund (Attorney) / Tracey Fredman (Secretary)*

## Political Subdivisions

### Associations of Governments

Received a presentation explaining the purpose and the activities of Utah's seven associations of governments.

### Eminent Domain

Received a report from a legislator and the state property ombudsman, who have been working with a group of parties interested in eminent domain issues.

This month's report included recommendations regarding two issues:

- Physical occupation of property without negotiation or court order; and
- Definition of condemning entity.

### Government Records Ombudsman

Received a report from the Utah State Archives on the work performed by the government records ombudsman.

### Interlocal Cooperation Act

Discussed draft legislation, "Interlocal Act Amendments," which:

- Requires parties entering into an interlocal agreement to identify with specificity the rules, policies, and procedures that will govern the interlocal entity;
- Amends provisions governing an interlocal entity's compliance with public meeting requirements; and
- Requires an interlocal entity to adopt certain budget and fiscal procedures.

### Quality Growth Commission

Received a report from the Utah Quality Growth Commission on the state of quality growth in Utah, including the LeRay McAllister Conservation Program.

*Chairs: Rep. R. Curt Webb / Sen. Daniel W. Thatcher  
Staff: Joseph T. Wade (Policy Analyst) / Victoria Ashby (Attorney) / Sara J. Thomas (Secretary)*

## Public Utilities and Technology

### Report — S.B. 275, Energy Amendments

Received statutory reports regarding enacted 2013 General Session S.B. 275, "Energy Amendments," from the Utah Public Service Commission and the Alternative Energy Interlocal Entity regarding policy and regulatory measures that would advance cleaner air through the enhanced use of alternative fuel vehicles. Primary concerns for this study issue include air pollution, financing, distribution, and balancing of interests.

### The Future of Energy Development

Received presentations from PacifiCorp, the Governor's Office of Energy Development, the Utah Public Service Commission, and the Division of Public Utilities about the future of energy development, including environmental concerns, distributed energy generation, financing, and net metering. In addition, the presenters provided information on how the regulatory process balances the needs of all classes of electric power users and the utility providers of the electric power.

*Chairs: Rep. Roger E. Barrus / Sen. David P. Hinkins  
Staff: Richard C. North (Policy Analyst) / Rebecca L. Rockwell (Attorney) / Tracey Fredman (Secretary)*

## Retirement and Independent Entities

September 25, 2013

### Annual Utah Retirement System Modifications

Received an explanation from the Utah Retirement Systems on its recommended changes in statute to keep the Utah State Retirement and Insurance Benefit Act updated. Each year a bill is introduced to address issues identified in the previous year by the Utah Retirement Systems and to make technical changes.

### Heber Valley Historic Railroad Authority

Received a request from the Heber Valley Historic Railroad Authority for a \$250,000 appropriation to restore two steam locomotives for operation. The authority is an independent state agency responsible for the railroad.

### Judges' Retirement Systems

Received a presentation from committee staff and received comments from the judicial branch on the current judges' retirement system.

### New State Employee Matching 401(k) Contribution

Received an update from the Office of the Legislative Fiscal Analyst and the Department of Human Resource Management on the new state employee matching 401(k) contribution that begins on January 3, 2014. H.B. 194, "State Employee Benefits Amendments," which passed during the 2013 General Session, eliminates future accumulation of unused sick leave for the postretirement benefit known as the Unused Sick Leave Retirement Program II for state employees and established the new benefit for state employees.

(Continued next page)

The amount of the matching contribution is determined annually by the Legislature, but may not exceed \$26 biweekly (\$676 per year) for each employee. The matching amount from the state has not yet been finalized.

### Postretirement Employment Restrictions

Received a presentation from committee staff and Utah Retirement Systems on postretirement employment restrictions. The 2010 retirement reforms implemented stricter postretirement reemployment restrictions, including a one-year employment separation requirement after retirement and a prohibition on collecting a retirement allowance while receiving any employer retirement contribution or while earning additional service credit. The restrictions are to discourage or eliminate incentives for early retirement. The committee heard additional policy options for postretirement employment restrictions from committee staff.

*Action: Approved as a committee bill, draft legislation "Reemployment Restrictions Amendments," which exempts an active senior justice court judge appointed to hear cases from postretirement employment restrictions and exempts a reemployed retiree who serves as a judge from reemployment earnings limitations.*

### Public Access to URS Records and Meetings

Received a report from Utah Retirement Systems on providing increased public access to URS records and meetings in response to a February 2013 state audit recommendation. URS described a new public website, [www.retirement.utah.gov](http://www.retirement.utah.gov), which provides access to URS reports, audits, board resolutions, and other information. URS also announced that it will open URS board administrative meetings to the public.

### Total Compensation Analysis for State Employees

Received a report from the Hay Group, an independent consulting firm contracted by the Department of Human Resource Management to study total compensation for state employees compared to the market and to make compensation recommendations. In "State of Utah: Total Compensation Market Survey and Analysis Study," Hay Group reported that the state's market position for cash compared to overall market is at approximately the same level as in 2011.

Excluding private sector pay in annual incentives, base salary for state workers is 11.2% below market, while benefits are 27.6% above market.

*Chairs: Rep. Craig Powell / Sen. Todd Weiler  
Staff: Benjamin N. Christensen (Policy Analyst) / Peter Asplund (Attorney) / Shannon C. Halverson (Attorney) / Linda Error (Secretary) / Anna M. Allen (Secretary)*

## Revenue and Taxation

### Deduction to Taxable Motor Fuel

Received a presentation from a legislator and retail dealers of gasoline regarding an existing 2% deduction to the gross

## INTERIM HIGHLIGHTS • October 2013

amount of taxable motor fuel allowed in state statute to allow for evaporation, loss in handling, and expenses of collection. Producers and refiners are required to pay an amount equal to one half of the deduction to retail dealers.

*Action: Directed that the presenting legislator work with committee members to draft legislation that would clarify who receives the benefit of the existing 2% deduction.*

### Pollution Control Sales Tax Exemption Amendments

*Action: Directed committee staff to prepare legislation to amend the sales tax exemption for investment in pollution control and pollution elimination facilities.*

### Property Tax — Calculation of the Certified Rate

*Action: Directed committee staff to prepare legislation that would mitigate the impacts that a large reduction in the taxable value of centrally assessed property might have on the calculation of the certified rate.*

### Tax Commissioner Qualifications

Discussed draft legislation "Appointment and Qualification of Members of the State Tax Commission," which amends provisions related to the appointment and qualification of members of the Utah State Tax Commission.

### Timing of "Truth in Taxation" Public Hearings

Received a report from a legislator on a solution related to calendar year taxing entities that hold budget hearings for a proposed budget increase in December, but do not hold a truth in taxation hearing for an increase to the property tax until August, when two-thirds of the budget has been spent.

### Specie Legal Tender

Discussed a proposal from the Utah Precious Metals Association that would address issues related to specie legal tender, including legal tender escrow agents and taxation.

*Chairs: Rep. Ryan D. Wilcox / Sen. Deldre M. Henderson  
Staff: Bryant R. Howe (Assistant Director) / Leif G. Elder (Policy Analyst) / Rebecca L. Rockwell (Attorney) / Sara J. Thomas (Secretary)*

## Senate Judicial Confirmation Committee

*October 8, 2013*

The committee recommended to the Senate the confirmation of Brian G. Cannell as a judge for the First District Court.

*October 9, 2013*

The committee recommended to the Senate the confirmation of Samuel P. Chiara as a judge for the Eighth District Court, Ryan B. Evershed as a judge for the Eighth District Juvenile Court, and Keith E. Eddington as a judge for the Eighth District Juvenile Court.

*October 14, 2013*

The committee recommended to the Senate the confirmation

*(Continued next page)*

of Catherine S. Conklin as a judge for the Second District Court.

The Senate met on October 16, 2013, and confirmed Mr. Cannell, Mr. Chiara, Mr. Evershed, and Mr. Eddington.

*Chair: Sen. Scott K. Jenkins*

*Staff: Michael E. Christensen (Director) / Susan Creager Allred (Associate General Counsel) / Jennifer Christopherson (Legislative Secretary)*

## State Water Development Commission

*October 15, 2013*

### Canal Safety

Discussed the need for reliable data concerning the safety of water conveyance facilities in the state and current canal safety management plan requirements. The Utah Association of Conservation Districts reported on its efforts to acquire canal safety data in certain Utah counties.

### Change Application Procedures

Received a report from the Utah Irrigators Alliance on proposed modifications to water right change application procedures. The commission also considered draft legislation "Water Rights—Change Application Amendments," which amends change application procedure requirements under Utah Code Title 73, Water and Irrigation.

### State and Federal Water Rights

Received a report from the Utah Farm Bureau Federation on its efforts to protect water rights holders from federal government impairment of water rights.

*Chairs: Rep. Keith Grover / Sen. Margaret Dayton*

*Staff: J Brian Allred (Policy Analyst) / RuthAnne Frost (Attorney) / Anna M. Allen (Secretary)*

## Subcommittee on Oversight

*October 15, 2013*

Received a presentation from the Office of the Legislative Fiscal Analyst reviewing the FY 2014-15 base budgets of the Senate and House of Representatives.

Received from the Office of the Legislative Fiscal Analyst reviews of the proposed budgets of the following offices:

- Office of Legislative Research and General Counsel;
- Office of the Legislative Fiscal Analyst; and
- Office of the Legislative Auditor General.

**Action:** *The subcommittee approved the proposed base budgets for the three staff offices.*

*Chairs: President Wayne L. Niederhauser / Speaker Rebecca D. Lockhart*

*Staff: Bryant R. Howe (Assistant Director) / Eric N. Weeks (Deputy General Counsel) / Phalin L. Flowers (Administrative Assistant)*

## Transportation

### Bonding for Transportation

Received a presentation from the Office of the Legislative Fiscal Analyst regarding the state bonding process, current transportation bonding levels, and future transportation bonding options.

### Condition of Utah's Roads

Continued a discussion from the June meeting with representatives of cities and counties regarding the current condition of roads in their jurisdictions and heard their recommendations for how to generate additional funding to improve road conditions.

### Driver License Amendments

**Action:** *Approved as a committee bill, draft legislation "Driver License Amendments," which makes a person who is less than 18 years of age eligible for a driver license certificate if, for six months, the person has held for six months an equivalent learner permit issued by another state or a branch of the United States Armed Forces.*

### DUI Annual Report

Received an annual, statutorily required report on DUI-related data from the Commission on Criminal and Juvenile Justice, including:

- Data necessary to allow DUI sentencing and enhancement decisions to be made;
- DUI-related data elements collected and maintained by the state courts; and
- Any measures for which data are available to evaluate the profile and impacts of DUI recidivism and to evaluate the DUI-related processes of law enforcement, adjudication, sanctions, driver license control, and alcohol education, assessment, and treatment.

### Reducing the Legal Blood Alcohol Level

Received a presentation from the Pacific Institute for Research and Evaluation at the Alcohol, Policy, and Safety Research Center, which recommends that the legal blood alcohol level for operating a motor vehicle be reduced from .08 to .05.

### State Highway System Report

Received an annual, statutorily required report from the Utah Department of Transportation regarding changes to the state highway system.

### Transit Funding

Discussed a committee study item regarding the funding of public mass transit.

*Chairs: Rep. Johnny Anderson / Sen. Kevin T. Van Tassell*

*Staff: Art L. Hunsaker (Policy Analyst) / Shannon C. Halverson (Attorney) / Tracey Fredman (Secretary)*

## Veterans Reintegration Task Force

October 18, 2013

### College Credit for Military Service & Training

Received a report from the Utah Board of Regents about the implementation of H.B. 254, "College Credit for Veterans," which passed during the 2013 General Session and requires Utah institutions of higher education to participate in a nationwide program for granting uniform credit for military training and experience. The board formally adopted the American Council on Education's program and military guide.

### Veterans' Courts

Received a presentation from the Utah Office of the Court Administrator about the creation of a pilot Veterans' Court program. The office indicated that it will be creating a pilot Veterans' Calendar for addressing veterans in the judicial process. Additional information about federal government and other states' veterans' court programs was provided by the task force staff.

### Veterans' Employment Opportunities

Received a presentation from the Utah Department of Workforce Services about the reporting of employment opportunities to the department by governmental entities and private contractors who receive a governmental entity contract. The task force discussed draft legislation that requires governmental entities to report employment opportunities to the department.

*Action: Approved as a committee bill, draft legislation "Workforce Services Job Listing Amendments," which requires certain governmental entities to report employment opportunities to the Utah Department of Workforce Services for public listing.*

### Veterans' Services Coordinator

Received a report from the Utah Department of Veterans' and Military Affairs about the implementation of S.B. 126, "Coordination of Services for Veterans," which passed during the 2013 General Session, and the requirement for hiring a Veterans' Services Coordinator in the department and the appointment of Veterans' Services Specialists at certain state agencies. The former executive director of the department noted that money was appropriated in the 2012-13 budget for the coordinator position.

### Federal Government Shutdown

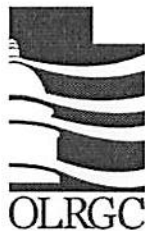
Discussed impacts of the partial federal government shutdown on Utahns and Utah businesses. Recognized the attendance of staff representing three members of Utah's congressional delegation.

Following the discussion, those representatives answered questions about the shutdown. Received letters regarding the shutdown from two other members of the congressional delegation.

*Chairs: Rep. Paul Ray / Sen. Peter C. Knudson*

*Staff: Richard C. North (Policy Analyst) / Esther Chelsea-McCarty (Associate General Counsel) / Tracey Fredman (Secretary)*

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*Office of Legislative Research and General Counsel*

**Next Interim Day — November 20, 2013**